

Aging and Bankruptcy¹

The Baby Boomers Meet Up at Bankruptcy Court

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This article reports on a study we conducted examining the degree to which bankruptcy is a function of age. The study uses a nationally-representative database of chapter 7 and 13 consumer bankruptcy petitions, and captures information on age from official public records. The data reveals that bankruptcy filings by older Americans (aged 55 and above) are rising at a faster rate than that of the general population. The implications are that the bankruptcy courts can anticipate an influx of new bankruptcy petitions as the baby boom generation continues to age.

Background

Before the implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) in October 2005, personal bankruptcies grew at a significant rate for over a decade and reached record levels in recent years.³ The causes of the bankruptcy explosion have been debated, but it is clear that debt as a percentage of income has reached record levels and appears to be a factor in the increase in filings.⁴ Whereas the relationship between age and debt has been documented,⁵ the degree to which bankruptcy is a function of age is less well studied.

¹ The results of this study were presented at the 15th Federal Forecasters Conference, Sept. 28, 2006.

² This paper reflects results of an ongoing research effort. The views and opinions expressed within this paper are solely those of the authors and do not necessarily represent official policy of the AOUSC.

³ BAPCPA was signed into law April 20, 2005, and the implementation date for the Act was Oct. 17, 2005. Just prior to the implementation date bankruptcy filings exploded, with more than 600,000 petitions filed in the first 16 days of October 2005 alone. After the implementation date, bankruptcy filings plummeted. The number of petitions filed in November 2005 was approximately 14,000. Although the number of petitions filed has risen steadily since November, it remains unclear at this time whether filings will reach pre-BAPCPA levels. During the 12-month period ending Sept. 30, 1990, nonbusiness (*i.e.*, personal) filings reached 685,420 petitions. During 1995, nonbusiness filings rose to 832,415 petitions. By Sept. 30, 2000, filings had grown to 1,226,037 petitions, a 79 percent rise over the 1990 figure. The Sept. 30, 2005, figure, 1,748,421 petitions, was a 43 percent increase in just five years and an all-time record (for this reporting period) for total filings.

⁴ See, *e.g.*, the bankruptcy statistics subsection of the online resources section of the American Bankruptcy Institute Web site at www.abiworld.org.

About the Authors

John Golmant is a statistician and Tom Ulrich is a social science analyst with the Administrative Office of the U.S. Courts (AOUSC) in Washington, D.C.

The purpose of this study was to determine the proportions of bankruptcy petitioners that fall within particular age categories and whether these proportions have changed over time. This research was conducted for two main reasons. First, having a better sense of who are likely to file petitions in the future will enhance the statistical projections performed by the Administrative Office of the U.S. Courts, which are used for short-term and long-term planning. Second, the study was conducted to evaluate the results of previous studies, which were based on less-comprehensive data. To track changes over time, national aggregate measures were obtained for the years 1994 and 2002.

Financial Literacy conducted a national (voluntary) survey of petitioners who filed for bankruptcy following the implementation of the BAPCPA.¹⁰ This study presented results that were consistent with the Sullivan, Warren and Westbrook paper and the EOUST paper.

To varying degrees, these studies lacked the methodological advantages of the current study. For example, they all relied on debtor-supplied information—either through responses to questionnaires or through voluntary submissions. Such data can be misleading (as when inaccurate information is supplied) or incomplete (as when information is not supplied because it is not required). Moreover, there can be missing data when respondents skip items or fail to complete the survey at all. In addition, with two exceptions, these studies were not national in scope. Finally, with one exception, these studies were not longitudinal.

Bankruptcy by the Numbers

Previous Studies

A 2001 study by Sullivan, Thome and Warren found that although the overall bankruptcy filing rate increased between 1991 and 2001, the filing rate for young petitioners actually declined,⁶ while the greatest number of bankrupt debtors is consistently in the middle-age category.⁷ The authors also reported an increase in the filing rate for debtors aged 65 and older.⁸ Because the study examined a survey sample of petitioners from five states, generalizations to the national population were questionable. But a 2002 study of chapter 7 petitioners conducted by the Executive Office for U.S. Trustees (EOUST) produced a distribution of ages consistent with the results of Sullivan, Warren and Westbrook.⁹

More recently, the Institute for

Data and Methodology

Unlike the previous studies, the current study uses data derived from information that is required of every petitioner who files for bankruptcy (*e.g.*, his or her Social Security number), rather than responses to questions about prior bankruptcy petitions, thereby avoiding the issues of nondisclosure and respondent bias.¹¹ Respondent bias, while presumably small in the above studies, could provide distorted estimates. The current study also employs a database that is thousands of times larger, is broader in extent, and

¹⁰ "First Demographic Analysis of Post-BAPCPA Debtors," Institute for Financial Literacy, Inc., April 2006.

¹¹ Most surveys that involve survey recipients (respondents) answering (responding to) questions will have some type of respondent bias. The main sources of respondent bias include: (a) some respondents do not answer the survey questions accurately, (b) some respondents do not answer all of the survey questions (thereby contributing to item nonresponse) and (c) some respondents choose not to participate in the survey altogether (thereby contributing to unit nonresponse). Respondent bias can play a significant role in determining the overall credibility of a survey. Respondent bias implies that the data are not necessarily representative, which could lead to inferences that are wrong (*i.e.*, a large respondent bias would imply low credibility). Because of this, statisticians have developed techniques to minimize or offset the effects of respondent bias. For example, imputation techniques have been developed to alleviate some of the bias due to item nonresponse. It is beyond the scope of this paper to comment on or explore the techniques used by other studies to measure and minimize the respondent bias (if any) present in their survey estimates.

⁵ See, *e.g.*, "Survey of Consumer Finance," Federal Reserve Board.

⁶ Sullivan, Teresa A., Thome, Deborah, and Warren, Elizabeth, "Young, Old and In Between: Who Files for Bankruptcy?," *Norton Bankruptcy Law Adviser*, Issue 9, September 2001.

⁷ *Id.*

⁸ *Id.*

⁹ Flynn, Ed and Bermant, Gordon, "Chapter 7 Debtors (From 19 to 92)," *ABI Journal*, Vol XXI, No. 9, 2003.

covers a longer time period than those used by prior studies, which allows the results to be much more representative of the nation.

The data used in this study came from a database constructed for the paper "Bankruptcy Repeat Filings."¹² The dataset has more than 13 million records and contains information on chapter 7 and chapter 13 consumer bankruptcy filers. The dataset covers 88 of the 94 judicial districts for the years 1993 through 2002.¹³ Each record includes the petitioner's name and Social Security number. Information was collected on both single petitioners and joint petitioners (for joint filings, the dataset captured separate records for each petitioner).

Unfortunately, neither this database (nor any other bankruptcy database maintained by the federal judiciary) contains comprehensive age-specific data.¹⁴ Therefore, age information for particular debtors must come from data sources outside the judiciary.

To accomplish this, we first selected samples of petitioners for the years 1994 and 2002. Six samples, three per year, were constructed using simple random sampling. The samples that examined chapter 7 cases only and chapter 13 cases only comprised 400 cases apiece. The samples that examined all filings (irrespective of chapter) comprised 600 cases.¹⁵

Birthdates for each petitioner were obtained by matching the Social Security number to public records accessible through Lexis and Westlaw. The success rate for matching Social Security numbers with birthdates was very high; of the 2,800 records sampled for use in this study, we found a match to a birthdate on record for all but 13.¹⁶ Age at filings (in months) was calculated by subtracting the birthdate from the filing date.

Two limitations should be noted. First, the survey samples can only be applied to the nation as a whole; that is,

the samples were not designed to provide viable estimates at the district or circuit levels. Second, the dataset of 13 million records did not have any data for 6 of the 94 districts (as mentioned above) and had only incomplete data from the earlier years for a few of the other districts.¹⁷

Results

The results are presented in the following tables and graphs. Figure 1 shows that the median age for bankruptcy petitioners increased from 37.7 years in 1994 to 41.4 years in 2002.

Figure 2 shows that the age profile also shifted; that is, between 1994 and

2002, older filers came to account for a larger percentage of overall filers. The largest drop occurred for filers under age 25. In 1994, these young filers accounted for 11 percent of overall filers, but in 2002 they accounted for 4 percent. Figure 3 indicates that petitioners over the age of 45 constituted 27 percent of filers in 1994, but 39 percent in 2002.¹⁸

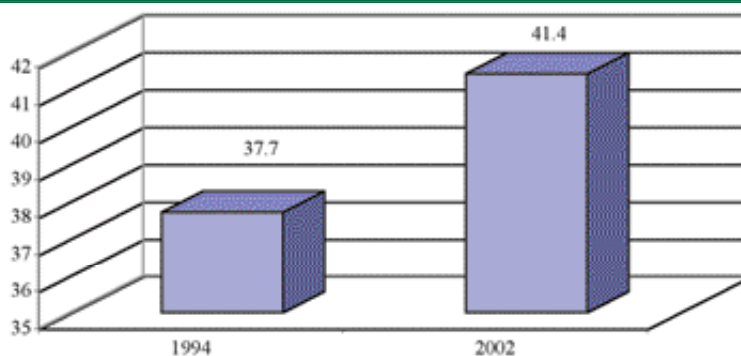
Both the general population and the bankruptcy petitioner population are getting older. However, it appears that the

¹⁸ Even though the percentage of filers under age 45 fell, the absolute number likely increased. Between 1994 and 2002, overall filings increased 72 percent. Applying our percentages to the total bankruptcy filing count for each year suggests that the number of filings by this age grouping increased by nearly one-third.

¹⁷ A more thorough discussion of these limitations can be found in Golmant and Ulrich (2006), *op. cit.*

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Figure 1: Median Age at Filing



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¹² See Golmant, John and Ulrich, Tom, "Bankruptcy Repeat Filings," *ABI Law Review*, Vol. 14, Spring 2006. A detailed description of the dataset, including a discussion of how the dataset was created, can be found here.

¹³ At the time the Golmant and Ulrich study was conducted, data was unavailable for the Northern District of Alabama, the Southern District of Georgia, and the Districts of the Virgin Islands, Idaho, Guam and the Northern Mariana Islands. See Golmant and Ulrich (2006), *op. cit.*, for additional details.

¹⁴ A very small percentage of debtors provide their birthdates on Schedule I of the bankruptcy petition. Such disclosure is completely voluntary, and no mechanism is in place to ensure that the information is correct.

¹⁵ The number of cases examined (sample size) for each sample was determined so that the confidence level could be at least 95 percent for the chapter 7 and chapter 13 samples and at least 99 percent for the total filings (chapter 7 plus chapter 13) samples.

¹⁶ For less than 1 percent of the petitioners in our sample, the birthdate was listed as a year. For the purposes of this study, the month of January was assigned to those petitioners.

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aging of the general population cannot, by itself, account for the aging of the bankruptcy population. As Table 1 suggests, the two groups are aging at different rates. Change in the proportion of bankruptcy petitioners by age group is much greater.

A related finding is that it appears that chapter 7 petitions are becoming more prevalent among older debtors. As Table 2 indicates, the fastest growth in chapter 7 petitions occurred in the groups of filers over age 55. The fastest growth in chapter 13 petitions occurred in the over-age-55 grouping as well, although the 45 to 54 age grouping also experienced significant growth.

Conclusion

Our results are consistent with those of Sullivan, Thorne and Warren; Bermant and Flynn; and the Institute for Financial Literacy. That is, while the bulk of bankruptcy filings have been by the middle-aged, older filers account for a growing proportion. The pattern of change exaggerates the pattern of change in the general population. In fact, if one were to compare the results of the Institute for Financial Literacy study with ours as in Table 3, it appears that the pattern of change over time is continuing.¹⁹

Further, as middle-age debtors account for the majority of bankruptcy petitioners suggests that the “baby-boomers” are disproportionately represented in bankruptcy proceedings. Sullivan, Warren and Westbrook have hypothesized that the baby boomers were uniquely challenged during their peak earning years. They argue that the economy was particularly tumultuous during the 1980s and early 1990s, that real wages remained flat or declined while real estate prices rose,²⁰ and that this occurred simultaneously with aggressive marketing strategies by the credit industry.²¹ According to Flynn and Bermant, credit card debt levels among chapter 7 petitioners were lowest for debtors under the age of 25, twice the lowest amount for debtors in their mid-30s, three times that amount for debtors

in their 50s, and five times that amount for debtors age 60 and older.²² No

explanation is given as to why the older debtors incurred the most credit card debt,

²² Flynn and Bermant (2003), op. cit.

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Figure 2: Percent of Filers in Age Category

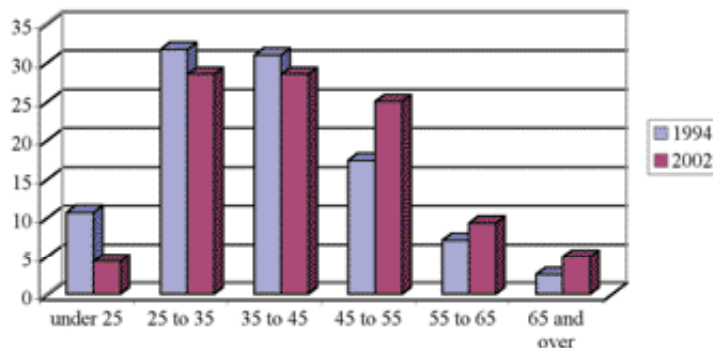


Figure 3

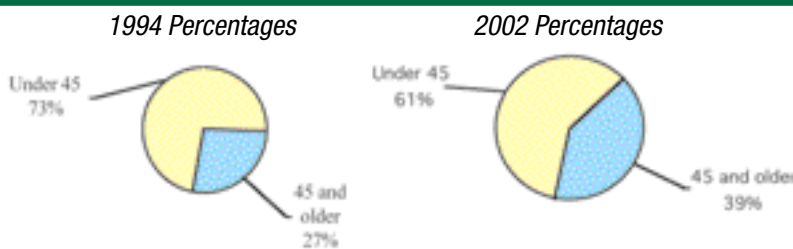


Table 1: Percentages of Age Grouping

General Population *				Bankruptcy Population			
Percentages of Age Group in US Population				Percentages of Age Group in Total Filers			
Census Data	1994	2002	% change	AO Study	1994	2002	% change
under 25	9.9	9.8	-1.0%	under 25	10.6	4.2	-60.4%
25 - 34	22.2	19.2	-13.5%	25 - 34	31.6	28.4	-10.1%
35-44	22.5	21.7	-3.6%	35-44	30.9	28.4	-8.1%
45-54	16.1	19.3	19.9%	45-54	17.3	24.9	43.9%
over 55	29.2	30.1	3.1%	over 55	9.6	14	45.8%

* Source: U.S. Census Bureau Current Population Report, 2000, and Population Division, U.S. Bureau of the Census. Note: the percentages exclude data for persons who were less than 20 years old.

Table 2: Percentages of Age Grouping (by Chapter)

Chapter 7				Chapter 13			
Age Category	1994	2002	% change	Age Category	1994	2002	% change
under 25	9.0	8.1	-10.0%	under 25	7.3	5.3	-27.4%
25 - 34	35.6	25.0	-29.8%	25 - 34	32.0	19.6	-38.8%
35 - 44	30.1	29.8	-0.1%	35 - 44	31.3	32.7	4.5%
45 - 54	16.0	19.7	23.1%	45 - 54	20.8	27.0	29.8%
55 and over	9.3	17.4	87.1%	55 and over	8.8	15.4	75.0%

p < .01

p < .05

¹⁹ This table was constructed for discussion purposes only. Methodological differences between the two studies make direct comparisons questionable.

²⁰ Sullivan, Teresa A., Warren, Elizabeth, and Westbrook, Jay, *The Fragile Middle Class*, Yale University Press, (2000), p.39.

²¹ *Id.*

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but high credit card debt among those aged 60 or older could explain why the percentage of chapter 7 filers who were in the oldest age group has grown at the fastest pace.

During the 1990s, indebtedness increased concurrent with wealth.²³ However, personal savings declined substantially.²⁴ In the general population aged 50 and over, median debt levels nearly doubled at every income level.²⁵ The amount of credit card debt among seniors (*i.e.*, those age 65 or older) rose 89 percent between 1992 and 2001.²⁶ Recent data suggest that 14 percent of 64-year-olds are facing retirement with negative net worth.²⁷ Incomes derived from assets fell from 21 percent to 16 percent, and more than one-third of seniors depend on Social Security for over 90 percent of their income.²⁸ More seniors are borrowing against their homes: Whereas 20.7 percent of seniors

had debts against their homes in 1990, 28.3 percent had debts against their homes in 2000.²⁹

[A]dditional factors...have developed gradually over the past two decades and have pushed increasing numbers of the more recent group of retirees toward financial insolvency.

The amount of mortgage debt carried by older homeowners has been increasing as more of them tap into their home equity.³⁰ This trend is partially the result of the Tax Reform Act of 1986, which retained the tax deduction for mortgage interest but eliminated the deduction for consumer credit, as well as a result of the removal of legal impediments in the late 1980s that discouraged lenders from offering home equity products.³¹ This trend also stems in

part from generational shifts in marriage, two-income families, labor market structures, life expectancies, retirement planning, levels of education and health care, and more generally, a rising standard of living and housing consumption.³² Of course, this trend tends to make older homeowners financially vulnerable, for household income typically declines after age 55.³³

Health care costs seem to be major contributors to indebtedness among seniors. Medical expenses such as deductibles, co-payments, dental and vision care, and prescription drugs are now all payable by credit card. The number of employer-sponsored supplemental insurance plans has steadily declined from 66 percent of employers in 1988 to 38 percent in 2003.³⁴ The result: Credit card debt of middle- to low-income families without health insurance increased 169 percent, compared to a 37 percent rise for those families with health insurance.³⁵

Certainly, senior citizens of the World War II generation faced reduced income in retirement and escalating health costs. But the additional factors noted above have developed gradually over the past two decades and have pushed increasing numbers of the more recent group of retirees toward financial insolvency. These trends likely will persist in the foreseeable future. ■

²³ Gist, John and Figuelredo, Carlos, "Deeper in Debt: Trends Among Midlife and Older Americans," AARP Public Policy Institute, April 2002.

²⁴ *Id.*

²⁵ *Id.*

²⁶ McGhee, Heather C. and Draut, Tamara, "Retiring in the Red, The Growth of Debt Among Older Americans," *Demos Briefing Paper, 2nd Edition*, February 26, 2004.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Masnick, George S., Di, Zhu Xiao, and Belsky, Eric S., "Emerging Cohort Trends in Housing Debt and Home Equity," Joint Center for Housing Studies, Harvard University, W05-1, January 2005.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ McGhee and Draut, *op. cit.*

³⁵ *Id.*

³⁶ Arguably, the main provisions of BAPCPA that could affect how and when a debtor files a consumer bankruptcy petition include: mandatory credit counseling, an income means test for chapter 7 petitioners, a limit on the automatic stay, and attorney verification and sanctions. These new provisions appear to have curtailed new petitions for reasons that are not as yet altogether clear. As mentioned, the number of bankruptcy petitions reached record levels during the 12-month period ending Sept. 30, 2005, just prior to the implementation date of BAPCPA, but during the 12-month period ending Sept. 30, 2006, filings plunged 38 percent to 1,112,542 petitions. Among bankruptcy experts, no consensus opinion exists on when or whether filings will return to pre-BAPCPA levels.

Table 3: Change in Age Group Representation Over Time

Percent of Bankruptcy Population by Age			
Age Category	1994	2002	2006*
under 25	10.6	4.2	3.6
25 - 34	31.6	28.4	22.7
35 - 44	30.9	28.4	28.6
45 - 54	17.3	24.9	22.4
55 and over	9.6	14.0	22.7

* Source: Institute for Financial Literacy.

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