



**ASIC**

Australian Securities & Investments Commission

Level 5, 100 Market Street,  
Sydney NSW 2000  
GPO Box 9827, Sydney NSW 2001  
DX 653 Sydney

Telephone: +61 2 9911 2000

Facsimile: +61 2 9911 2414

[www.asic.gov.au](http://www.asic.gov.au)

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The Executive Director  
Australian Law Reform Commission  
GPO Box 3708  
Sydney NSW 2001

By email: [elder\\_abuse@alrc.gov.au](mailto:elder_abuse@alrc.gov.au)

Dear Sir/Madam

**Submission to Australian Law Reform Commission's Inquiry on 'Protecting the Rights of Older Australians from Abuse'**

The Australian Securities and Investments Commission (ASIC) welcomes the opportunity to comment on issues raised in Issues Paper 47: Elder Abuse (IP47).

Our comments are attached to this letter.

Yours sincerely

Laura Higgins

Acting Senior Executive Leader, Financial Literacy  
Australian Securities and Investments Commission

## **Submission by the Australian Securities and Investments Commission (ASIC) to the Australian Law Reform Commission's (ALRC) Inquiry on 'Protecting the Rights of Older Australians from Abuse'**

ASIC is Australia's corporate, markets and financial services regulator. It regulates Australian companies, financial markets, financial services organisations and professionals who deal and advise in investments, superannuation, insurance, deposit taking and credit. It has powers to protect consumers against misleading or deceptive and unconscionable conduct affecting all financial products and services, including credit.

ASIC is also the Australian Government agency with lead responsibility for financial literacy, consistent with its statutory objective to promote the confident and informed participation of consumers and investors in the financial system. ASIC leads and coordinates Australia's National Financial Literacy Strategy 2014-17 (National Strategy) which sets out a national framework for financial literacy work in Australia. The National Strategy is built around five strategic priorities:

- Educate the next generation particularly through the formal education system.
- Increase the use of free, impartial information, tools and resources.
- Provide quality targeted guidance and support.
- Strengthen coordination and effective partnerships.
- Improve research, measurement and evaluation.

Seniors<sup>1</sup> are one of a number of priority audiences under the National Strategy.

Seniors face difficult challenges related to managing their money as they age, including transitioning from work to retirement and planning how to best turn retirement savings into income. A large number of factors need to be considered, including several unknown variables such as longevity risk, investment returns, future health and housing options. Gaps in financial knowledge and understanding, and/or diminishing physical cognitive abilities may cause some seniors to rely more on others, which in turn, along with other factors, may increase their vulnerability to financial abuse.

For all these reasons, ASIC has a strong interest in building the financial literacy and capabilities of Australian seniors. However while financial literacy is an important factor in an individual's ability to make financial decisions, it is not the only factor. Relevant regulation and enforcement activities are also critical in safeguarding the interests of all consumers, including seniors.

ASIC notes that the focus of the ALRC Inquiry encompasses the full range of elder abuse<sup>2</sup> including physical, psychological, emotional, sexual and financial abuse and can be the result

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<sup>1</sup> For the purposes of this submission and ASIC's work in this space, we define seniors as Australians aged 55+. However we note the age of seniors in Indigenous communities are likely to include aged 50 and above, as noted in the ALRC Issues paper.

<sup>2</sup> As noted in the ALRC Issues paper and defined by the World Health Organisation, elder abuse is: 'a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person'. 'Harm' includes fraud and other instances of financial abuse.

of intentional or unintentional behaviour. Given ASIC's policy remit, the focus of this submission is on issues relevant to elder *financial* abuse, which we understand to mean "*the illegal or improper exploitation or use of funds or resources of the older person*".<sup>3</sup>

ASIC notes that a wide range of factors may contribute to financial abuse<sup>4</sup>, and that a multi-faceted approach is likely to be needed to prevent financial abuse.<sup>5 6</sup> However, in order to develop effective responses, ASIC would note that further research is needed to identify the nature and extent of financial abuse as well as the contributing factors, especially in particular communities such as Indigenous and come from culturally and linguistically diverse (CALD) communities.

This submission responds to aspects of the background material and analysis covered in the ALRC Issues Paper that are relevant to ASIC's policy remit. It includes discussion of:

1. Financial literacy and the financial decision making context;
2. ASIC's financial literacy program (with specific focus on seniors); and
3. ASIC's regulatory experience of elder financial abuse.

We trust that the information contained in this submission is of interest to the Inquiry Committee. As the ALRC would be aware, ASIC's role is to administer its statutory functions and objectives. ASIC does not make, nor make comment on, matters of Government policy. The comments in this submission are provided on that basis.

## **1. Financial literacy and the financial decision-making context**

### **Definition**

Financial literacy is about having "the knowledge, skills, attitudes and behaviours to make sound financial decisions, based on personal circumstances, to improve financial wellbeing".<sup>7</sup>

Financial literacy or capability is regarded worldwide as an essential everyday life skill that can help people to understand and negotiate the financial landscape and manage their money and financial risks effectively and responsibly. It is considered an important complement to financial market regulation, consumer protection measures and financial inclusion policies.<sup>8</sup>

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<sup>3</sup> Kaspiew, Carson and Rhoades, *Elder Abuse: Understanding issues, frameworks and responses*, Australian Institute of Family Studies Research Report No 35, Commonwealth of Australia, 2016.

<sup>4</sup> For example, research undertaken by Alzheimer's Australia NSW identifies contributing factors to include family, social and cultural dynamics, social isolation, cognitive impairment, mental health and wellbeing and the state of a person's finances. See *Preventing financial abuse of people with Dementia*, Alzheimer's Australia NSW, June 2014: [www.fightdementia.org.au/sites/default/files/20140618-NSW-Pub-DiscussionPaperFinancialAbuse.pdf](http://www.fightdementia.org.au/sites/default/files/20140618-NSW-Pub-DiscussionPaperFinancialAbuse.pdf)

<sup>5</sup> Ibid (Note 3)

<sup>6</sup> Research conducted by the US Consumer Financial Protection Bureau (CFPB) found that a strong collaboration among community stakeholders – like financial institutions, adult protective services, and law enforcement – can be very effective in protecting their older residents from financial exploitation. See [http://files.consumerfinance.gov/f/documents/082016\\_cfpb\\_Networks\\_Study\\_Report.pdf](http://files.consumerfinance.gov/f/documents/082016_cfpb_Networks_Study_Report.pdf)

<sup>7</sup> As defined in the National Financial Literacy Strategy 2014-17; see [www.financialliteracy.gov.au/strategy-and-action-plan/financial-literacy-strategy/strategy-2014](http://www.financialliteracy.gov.au/strategy-and-action-plan/financial-literacy-strategy/strategy-2014)

<sup>8</sup> National Financial Literacy Strategy 2014-17, p.6

## Challenges for Australian seniors

Australians navigating financial decisions face numerous challenges including information and choice overload, complex products and decisions, rapidly evolving financial markets, significant technological shifts and, in some cases, poor marketing, sales or advice practices.

In addition to the above, seniors can face particular challenges in relation to the management of their personal finances including:

- **Retirement decisions:** The period around and during retirement exposes people to an array of financial and other important decisions that require assessments of risk and uncertainty – assessments that behavioural research shows us are extremely challenging for the human brain to process. Over multiple phases of retirement, these complex and difficult decisions can present suddenly and unpredictably, can coincide with negative life events and emotional upset (e.g. death, ill-health, divorce) and/or may not be decisions that individuals have had any experience in making before. The large volume and range of information and advice available to retirees, even the information intended to aid or influence consumer decisions, can overwhelm rather than assist them.
- **Elder financial abuse** and exposure to particular types of frauds and scams.
- **Physical, mental, social and health issues** such as diminishing cognitive function, diminishing vision and health through the ageing process and social and financial inclusion.<sup>9</sup>
- **Unfamiliar and rapidly evolving technological innovations:** Compared to younger cohorts, seniors tend to have less exposure to and experience in using or interacting with digital channels. This may mean they are less exposed to some risks but more vulnerable to others.

Within this complex and changing environment, seniors may rely on others to help them with financial decision-making which in turn, along with other factors, may increase their vulnerability to financial abuse.

## Diversity of the seniors' cohort

As the ALRC Issues paper notes, Australia's population is ageing. The proportion of the population aged 65 and over is expected to increase from 15% in 2015 to 22% by 2055, primarily due to rising life expectancy and lower birth rates.<sup>10</sup>

Senior Australians are a diverse cohort. A large proportion (around 31%) of seniors aged 65+ come from CALD backgrounds. A third (34%) are entering their older years without a

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<sup>9</sup> For example, health issues such as dementia and Alzheimers may impact on financial decision-making. In 2015 the Australian Institute of Health and Welfare estimated that 1 in 10 Australians aged 65 and over had dementia. It is estimated that around 342,800 people currently have dementia, with projections suggesting this number will increase to around 400,000 in 2020 and 900,000 in 2050.<sup>9</sup>

<sup>10</sup> Calculated using figures in Treasury's *2015 Intergenerational Report: Australia in 2055*, March 2015, pp12. Both the 2015 and 2055 figures are projections of the likely proportion of the population aged 65 and over, based on ABS Catalogue 3105.0.65.001, Australian Historical Population Statistics and Treasury projections.

spouse, and the proportion living alone is almost double that of the pre-war generation (11% versus 6%).<sup>11</sup>

Furthermore, the experience of the ageing journey and the way people approach financial decisions are equally diverse, both for individuals and across different segments of the population. Decision-making is influenced not only by personal knowledge and skills, but also by a range of shifting and sometimes conflicting factors, and the specific features of the decision context, including the way choices are presented.

### **Financial literacy levels and ageing**

Research findings from the most recent ANZ survey of Adult Financial Literacy in Australia (ANZ Survey)<sup>12</sup> confirm that low financial literacy can be found in any demographic group and a range of factors correlate with differences in financial literacy including age, gender, financial knowledge and numeracy, financial attitudes, household income and occupation.

The ANZ Survey shows that people in the 55–64 age group had above average scores on a number of aspects of financial literacy, such as keeping track of finances, staying informed, and planning ahead, compared to younger people (especially those aged 18-24). However, those in older age groups (65 +) had scores that were significantly below average on financial knowledge and numeracy, with the lowest scores on financial knowledge and numeracy found amongst females aged 65 years or over.<sup>13</sup>

### **Impact of cognitive decline**

Ageing has been found to be associated with cognitive decline, which in turn is associated with worsening financial decision-making. However those experiencing this decline may not be aware of it.<sup>14</sup>

In addition, a number of other studies have identified that declining cognition with age is associated with a significant decline in financial literacy. For example, research has found that for 60-65 year olds there was a small difference between self-assessed financial literacy (59%) and measured financial literacy (70%). However this gap widened as age increased and measured financial literacy scores fell, while self-assessed confidence in financial literacy remained stable (e.g. the confidence of 85 year olds was 79% while the measured financial literacy was 39%).<sup>15</sup>

Declining tested financial literacy levels among older people suggests that financial decisions made in later years may not be as good as those made by the same people earlier in their life.

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<sup>11</sup> Hugo, G: *The Demographic Facts of Ageing in Australia*, Australian Population and Migration Research Centre (APMRC) Policy Brief Vol 2 No 2, University of Adelaide, 2014.

<sup>12</sup> ANZ Survey of Adult Financial Literacy in Australia (2014)

<sup>13</sup> ANZ Survey of Adult Financial Literacy, 2015, 2011, 2008, 2005, 2002

<sup>14</sup> Earl JK, Gerrans P, Asher A, Woodside J, *Financial literacy, financial judgement and retirement self-efficacy of older trustees of self-managed superannuation funds*, Australian Journal of Management, Vol 40 (3), 2015, pp 435-458.

<sup>15</sup> Finke M, Howe J, Huston S: *Old age and the decline in financial literacy*, Texas Tech University, 2011, <http://www.smartretirement.com.au/wp-content/uploads/2015/06/Financial-literacy-and-its-decline-with-ageing.-Michael-Finke-Texas-Tech.pdf>

However, continued high confidence levels suggest there could be a reluctance to stop making financial decisions. This is particularly concerning in light of the increasing popularity of Self-managed super funds (SMSFs) with older Australians.<sup>16</sup>

## **2. ASIC's financial literacy program**

ASIC's financial literacy program aims to improve the financial wellbeing of Australians by advancing their financial literacy and capabilities through:

1. The National Financial Literacy Strategy;
2. Provision of consumer financial education, including through the information and resources on ASIC's MoneySmart website; and
3. Supporting the delivery of financial literacy in schools through ASIC's MoneySmart Teaching program.

### **National Financial Literacy Strategy**

The National Financial Literacy Strategy provides national direction and a flexible framework for action by multiple stakeholders across the government, business, community and education sectors with the objective of advancing the financial literacy of Australians.

Seniors are one of a number of key audiences identified under the National Strategy. Other key audiences include Indigenous Australians, pre-retirees, women and vulnerable segments of the community.

### **ASIC's MoneySmart**

Providing trusted and impartial guidance and tools through its MoneySmart website ([www.moneysmart.gov.au](http://www.moneysmart.gov.au)) is a core element of ASIC's consumer financial education work. The website aims to help Australians of all ages and life-stages make informed decisions about their money. In 2015-16, 6.1 million Australians visited ASIC's MoneySmart and 9 in 10 reported taking positive action as a result of visiting the website.

ASIC's MoneySmart comprises a comprehensive suite of targeted and tailored financial literacy resources for many and diverse audience sectors, including Indigenous Australians, those from CALD backgrounds, women and seniors.

ASIC also works closely with other Government agencies<sup>17</sup>, and the intermediaries who work with them, to develop and promote resources for particular target audiences.

### **ASIC MoneySmart content relevant to seniors**

ASIC's MoneySmart website has a wide range of information and resources aimed at the 55+ age group to help them manage their personal finances and understand their rights and

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<sup>16</sup> Earl J K, Gerrans P, Asher A, Woodside J: *Financial literacy, financial judgment, and retirement self-efficacy of older trustees of self-managed superannuation funds* Australian Journal of Management, Vol. 40(3), 2015, pp 435-458

<sup>17</sup> For example, the Australian Tax Office, the Departments of Human Services and Social Services, PM & C Office for Women, ACCC, state and territory education authorities.

responsibilities. Topics include superannuation, retirement planning, money management, health, dementia and memory loss, housing, paying for funerals, aged care, wills and powers of attorney, life insurance, investing, avoiding scams and fraud, choosing a financial adviser, avenues of support for seniors and elder care, and recognising the signs of financial abuse.

Our resources include a number of online calculators dealing with various aspects of superannuation and retirement income planning, including our retirement planner, account-based pension calculator, super contributions optimizer and reverse mortgage calculator.

ASIC is committed to considering the needs of older Australians and people using assistive technologies and ensuring that the website is accessible on a range of devices and web browsers.

ASIC's MoneySmart also provides a range of consumer publications, including resources in multiple languages. Publications cover many topics relevant to the over 55 age group: everyday money management, making decisions about super including self-managed super, making financial decisions at retirement, seeking financial advice, investing between the flags, making a complaint and where to go for urgent money problems. These publications are distributed inter alia via financial counsellors and the DHS Financial Information Services officers.

See [Attachment A](#) for an overview of ASIC MoneySmart content and resources relevant to seniors.

### **Segmentation research on the 55+ age group**

As stated above, Australian seniors face many difficult challenges related to managing their money as they age. ASIC's MoneySmart information and resources are designed to assist seniors with meeting these challenges.

From our latest wave of research into awareness and usage of ASIC's MoneySmart website, we know that around 1 in 4 of ASIC MoneySmart users<sup>18</sup> are aged over 55. However, the same research suggests there is more we could do to meet the needs of this cohort as well as those who may support them in their financial decision-making.

In 2016-17, ASIC is looking at how to best support the consumer education needs of the over 55s (especially those aged between 55 and 85). Our preliminary research in this area has highlighted the diversity of the seniors' cohort. It has also revealed a widespread lack of disaggregated data about, or understanding of, different cohorts of older Australians (variously categorised as seniors, retirees, 55+ or 65+), particularly in relation to financial decision-making.

To address this gap, we are currently progressing a segmentation analysis of the 55+ cohort. This research aims to aid our understanding of:

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<sup>18</sup> According to our latest research shows that 12% adult Australians aged 18+ have visited ASIC's MoneySmart in the past 6 months.

- the financial needs and concerns of Australian seniors and the ways in which seniors currently approach financial decision making, including barriers and enablers;
- current sources of financial / money management information and key gaps in awareness and knowledge about where to go and how to access such information;
- communication approaches and key messages that will be most effective in targeting this segment;
- the broader engagement of family members / carers and significant others who may support senior Australians in their financial decision making; and
- key characteristics (including gender differences) within the seniors' segment, the relative size of key segments and implications for ASIC MoneySmart's offering to this market.

ASIC anticipates that this segmentation research will be completed by December 2016 and would be happy to share the findings of this research with the ALRC once it is finalised, if it is of interest to the Committee.

### **3. ASIC's regulatory experience of elder financial abuse**

As Australia's corporate, markets and financial services regulator, ASIC regulates Australian companies, financial markets, financial services organisations and professionals who deal and advise in investments, superannuation, insurance, deposit taking and credit. Below are some issues, based on ASIC's regulatory experience, that the Inquiry Committee may find of interest.

#### **Reports of misconduct relating to alleged financial abuse**

ASIC receives approximately 10,000 reports of alleged misconduct from members of the public each year in relation to their experiences with Australian companies, financial services and credit providers, and other people and entities we regulate. These reports cover a wide range of matters. While some reports of misconduct may have an element of elder abuse, only a very small number specifically raise allegations of abuse.

Of this very small proportion, the matters received over the past 5 years fall into four categories:

- Credit: concerns that credit providers extended loans to elderly people or accepted guarantees from elderly people for loans of their family, and the elderly people were unable to repay the loans or meet the guarantees
- Governance of aged care homes: concerns about corporate governance breaches involving the operation of aged care homes, including that operators misappropriated elderly residents' funds
- Retirement income product: concerns that a financial services provider changed the payment arrangements for an elderly customer's retirement income product



- Internal dispute: concerns about a dispute between board members of an incorporated association, including allegations of abuse of an elderly board member

### **Indigenous communities**

Issues of senior financial abuse in Indigenous communities have been brought to the attention of ASIC's Indigenous Outreach Program (IOP) team, who work closely with Aboriginal and Torres Strait Islander people, community groups, and businesses in urban, rural and remote areas. According to the anecdotal evidence received and observations of the IOP team, the following factors may contribute to senior abuse:

- geographic isolation in some cases
- a lack of familiarity among some seniors, particularly those from traditional communities, of the 'western' concept of money
- multi-generational households, which puts pressure on finances
- the cultural obligation between grandparents and grandchildren
- the cultural obligation to share resources when someone asks.

The IOP team consider under-reporting of incidences of financial abuse is likely and due, in part, to structural barriers of remoteness, language and lack of literacy about consumer rights as well as cultural issues, including a scepticism about dealing with government agencies.

### **Scams and fraud**

Research highlights the relationship between ageing and vulnerability to financial exploitation and fraud<sup>19</sup> and the impact of some scams.<sup>20</sup> Other factors have also been found to potentially increase vulnerability of seniors to financial exploitation. For example social isolation which may occur as a consequence of poor health, retirement, and loss of a spouse and friends.<sup>21</sup>

Self-reported data collected by ACCC's Scamwatch activity shows that older Australians often suffer greater financial losses, than younger cohorts, as a result of scams. For example in 2015, the 55-64 and 65+ age groups combined made up a large proportion (43%) of scam losses (approx \$21 million) in cases where age was recorded. However it is important to note that, while seniors are over-represented in certain types of frauds or scams, they may be under-represented in others.<sup>22</sup>

ASIC is also aware that a wide variety of investment and 'get rich quick' scams continue to target Australians and that people over 55, many of whom are looking for investment returns

<sup>19</sup> Karp, N ; Wilson, R. Protecting older investors: the challenge of diminished capacity. *Generations: Journal of the American Society on Aging*. Summer 2012; vol. 36(2), pp. 33-38.

<sup>20</sup> See Targeting scams: Report of the ACCC on scams activity 2015, ACCC May 2016, p. 9.

<sup>21</sup> Kim and Geistfeld: What makes older adults vulnerable to exploitation or abuse?: <https://ncsu.edu/ffci/publications/2008/v13-n1-2008-spring/Kim-Geistfeld.php>

<sup>22</sup> For example, the ACCC's report on scam activity in 2015-16 reveals that the seniors are often targets for investment scams and dating and romance scams, which is reflected in the data. However younger age groups are targeted in relation to ID theft involving spam or phishing, fake trader websites and job and employment scams. See Targeting scams: Report of the ACCC on scams activity 2015, ACCC May 2016, p. 9.

in a low interest rate environment, are often most at risk. In common with a number of other law enforcement and regulatory agencies, ASIC is active in providing the Australian community – including seniors – with information and warnings about scams and how to avoid them.<sup>23</sup>

### **Complex products, credit and investments**

Another area of potential elder financial abuse is where seniors lack understanding of complex financial products and may also desire to assist their children financially. For example, home equity release providers and products or other mortgage based debt products, are naturally targeted at older Australians with limited access to non-asset related wealth.<sup>24</sup>

ASIC's Deposit takers, Credit and Insurers (DCI) team was involved in a matter which resulted in the banning of a home finance manager and compensation to borrowers/ investors. The home finance manager had submitted loan applications for approval to the bank he was employed by when he knew they contained false information and were supported by false documents. The 12 customers to whom the loan applications related were elderly or vulnerable and with limited financial means, yet in spite of this they were encouraged to borrow against their homes, some of which were unencumbered, to invest in the scheme which promised returns of 15–25% per annum to investors. The scheme failed leaving the customers without sufficient income to repay their loans to the bank in question.

DCI continues to take an interest in and monitor the sale of inappropriate products to consumers with a particular focus on products marketed to vulnerable consumers.

### **Superannuation, including self-managed super**

As the ALRC Issues paper notes, a significant portion of the financial assets of older Australians is held in their superannuation funds, potentially providing potential opportunity for elder financial abuse.

The ALRC reports that in relation to superannuation, abuse of an elder person may include the *"use of deception, threats or violence to coerce the person to contribute, withdraw or transfer superannuation funds, to spend those funds in a way that benefits the abuser, or even to make a binding death benefit nomination in favour of the abuser"*.

ASIC notes that *investment* of an older person's superannuation, while it remains in a superannuation fund, may also provide potential for financial abuse. This may be especially the case in relation to self-managed superannuation funds (compared to larger APRA-regulated superannuation funds) as there may be more scope to direct the fund's investments in a way that benefits an abuser.

The superannuation legislation requires superannuation fund trustees to control access to superannuation savings by reference to the satisfaction by a fund member of specific

<sup>23</sup> See <http://asic.gov.au/about-asic/media-centre/find-a-media-release/2016-releases/16-141mr-asic-warns-consumers-to-wise-up-to-investment-scams/>

<sup>24</sup> ASIC, Report 109: *'All we have is this house' Consumer experiences with reverse mortgages*, 2007 [http://download.asic.gov.au/media/1343096/Rep109\\_reverse\\_mortgages\\_Nov07.pdf](http://download.asic.gov.au/media/1343096/Rep109_reverse_mortgages_Nov07.pdf)

'conditions of release'.<sup>25</sup> On this basis the potential for issues in relation to a particular fund member, such as elder abuse, that may exist in the background to a claim made by that member for benefits based on a condition of release having been satisfied, is not part of the process by which a fund trustee gives access to superannuation benefits.

### **Powers of Attorney - difficulty for superannuation trustees to detect and prove abuse**

The ALRC Issues Paper notes possible elder abuse in relation to the power of a person acting under a power of attorney (the donee of the power) to deal with the superannuation of an elder person.

ASIC would note that a fund trustee could reasonably be expected to have measures in place to ensure that an instruction received on behalf of a member, by a person purporting to act under a power of attorney, was properly supported by clear documentation.

However, even where such clear documentary support did exist, ASIC notes it would be difficult for fund trustees to determine whether certain actions could be characterised or suspected in relation to potential elder abuse.

For example:

- A donee's instructions to take a portion of a superannuation benefit as a lump sum rather than a pension may as much reflect the importance to the elder fund member of paying down debt, or facilitating new accommodation arrangements as action by an abuser to access superannuation money for their own benefit.
- A donee's instructions to continue drawdown of only the statutory minimum amount of an account based pension may reflect the active management of the elder person's longevity risk, rather than maximising the value of a death benefit that may become payable to an abuser.
- A donee's instructions in relation to the part commutation of an elder person's account based pension may as much reflect the need to meet a 'lumpy expense', such as in relation to health care, as action by an abuser to access superannuation money for their own benefit.

ASIC also notes that in the superannuation context, issues in relation to powers of attorney can extend beyond one person 'acting for' a fund member in liaison or giving instructions to the trustee of a superannuation fund.

In the self-managed superannuation fund context, superannuation legislation permits the donee of enduring power of attorney given by a fund member to take over the fund member's role as a trustee of the fund (or as a director of the trustee company), while the donor remains a fund member.<sup>26</sup> In these circumstances the donee does not act as an agent for the fund

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<sup>25</sup> Further details can be found in Part 6 of the *Superannuation Industry (Supervision) Act 1993* and Part 1 of Schedule 1 to the *Superannuation Industry (Supervision) Regulations 1994*.

<sup>26</sup> Further details can be found in section 17A of the *Superannuation Industry (Supervision) Act 1993*, and in particular subsection 17A(3), and in Australian Taxation Office guidance in Self Managed Superannuation Fund Ruling 2012/2.

member. Rather the donor fund member is required to resign as a trustee of the fund (or director of the trustee company) and the donee is required to be appointed. In such circumstances, the donee may acquire significant power in relation to the fund and the elder person's superannuation benefits in it, including in relation to the investment of the fund.

### **Disclosure and disclosure practices in the superannuation sector**

One focus of ASIC's Investment Managers and Superannuation (IMS) team is the regulation of conduct and disclosure in superannuation. This includes considerations in relation to ASIC policy affecting groups of stakeholders in the superannuation industry and potential law reform.

The IMS team is currently reviewing superannuation fund disclosures and disclosure practices in the superannuation industry, including disclosures involving superannuation policy changes.

Further work involves exploring the circumstances where superannuation fund members may be vulnerable to poor decisions, actions or outcomes, including cessation of employment.

These reviews may also query whether superannuation funds have identified vulnerable fund members and/or developed targeted communication strategies for vulnerable fund members.

## Attachment A

### Current ASIC MoneySmart information, tools and publications relevant to seniors

A. Website content	
<b>Over 55s:</b> <a href="https://moneysmart.gov.au/life-events-and-you/over-55s">moneysmart.gov.au/life-events-and-you/over-55s</a>	Links to other information within this section are: <ul style="list-style-type: none"> <li>• <a href="#">Retirement triggers</a></li> <li>• <a href="#">Your money</a></li> <li>• <a href="#">Your health</a></li> <li>• <a href="#">Your home</a></li> <li>• <a href="#">Wills &amp; powers of attorney</a></li> <li>• <a href="#">Paying for your funeral</a></li> <li>• <a href="#">Aged care</a></li> <li>• <a href="#">Elder care and seniors support</a></li> <li>• <a href="#">Memory loss, dementia and your money</a></li> <li>• <a href="#">Financial abuse</a></li> </ul>
<b>Superannuation and retirement</b> <a href="https://moneysmart.gov.au/superannuation-and-retirement">moneysmart.gov.au/superannuation-and-retirement</a>	Links to other information within this section are: <ul style="list-style-type: none"> <li>• <a href="#">How super works</a></li> <li>• <a href="#">Is your super on track?</a></li> <li>• <a href="#">Keeping track &amp; lost super</a></li> <li>• <a href="#">Self-managed super</a></li> <li>• <a href="#">Retirement income planning</a></li> <li>• <a href="#">Income sources in retirement</a></li> </ul>
<b>Money musts before you die</b> <a href="https://moneysmart.gov.au/life-events-and-you/life-events/money-musts-before-you-die">moneysmart.gov.au/life-events-and-you/life-events/money-musts-before-you-die</a>	Links to other information within this section are: <ul style="list-style-type: none"> <li>• <a href="#">Sort out your assets and bank accounts</a></li> <li>• <a href="#">Check your life insurance</a></li> <li>• <a href="#">Update the beneficiaries on your super and life insurance</a></li> <li>• <a href="#">Involve your partner</a></li> <li>• <a href="#">Write or update your will</a></li> <li>• <a href="#">Keep your important documents safe</a></li> </ul>
<b>Investing</b> <a href="https://moneysmart.gov.au/investing">moneysmart.gov.au/investing</a> This section guides consumers through the basic principles of investing and how to find a good financial adviser. It also identifies some investing danger signs.	Links to other information within this section are: <ul style="list-style-type: none"> <li>• <a href="#">Invest smarter</a></li> <li>• <a href="#">Financial advice</a></li> <li>• <a href="#">Investment warnings</a></li> <li>• <a href="#">Managed funds</a></li> <li>• <a href="#">Shares</a></li> <li>• <a href="#">Property</a></li> <li>• <a href="#">International investments</a></li> <li>• <a href="#">Investments paying interest</a></li> <li>• <a href="#">Complex investments</a></li> <li>• <a href="#">Borrowing to invest</a></li> </ul>
<b>Borrowing basics</b> <a href="https://moneysmart.gov.au/borrowing-and-credit/borrowing-basics">moneysmart.gov.au/borrowing-and-credit/borrowing-basics</a>	Content of particular relevance to seniors includes: <ul style="list-style-type: none"> <li>• <a href="#">Loans involving family and friends</a></li> <li>• <a href="#">Avoiding sales pressure</a></li> </ul>

<p><b>Scams</b>  <a href="http://moneysmart.gov.au/scams">moneysmart.gov.au/scams</a>  This section explains how scams work, how to identify different scams, what to do if you have been scammed and how to avoid getting caught up in a scam.</p>	<p>Links to other information within this section are:</p> <ul style="list-style-type: none"> <li>• <a href="#">Companies you should not deal with</a></li> <li>• <a href="#">Investment scams</a></li> <li>• <a href="#">Superannuation scams</a></li> <li>• <a href="#">Banking &amp; credit card scams</a></li> <li>• <a href="#">Other scams</a></li> <li>• <a href="#">Avoiding scams</a></li> <li>• <a href="#">Report a scam</a></li> <li>• <a href="#">Recovering your losses</a></li> <li>• <a href="#">ASIC lists to check up on people, companies, schemes and personal property.</a></li> </ul>
<p><b>B. Tools and Calculators</b></p>	
<p><b>Super &amp; retirement</b></p>	<ul style="list-style-type: none"> <li>• <a href="#">Superannuation calculator</a> – calculates how much super you are likely to have when you retire</li> <li>• <a href="#">Super contributions optimiser</a> – helps consumers see how they can boost their super by making extra contributions</li> <li>• <a href="#">Super vs mortgage calculator</a> – works out if you better off paying extra to your super or your mortgage</li> <li>• <a href="#">Super co-contribution calculator</a> - finds out if a Government co-contribution can boost your super</li> <li>• <a href="#">Employer contributions calculator</a> – works out how much your employer be paying into your super</li> <li>• <a href="#">Retirement planner</a> – looks at options for boosting your retirement income by taking action now</li> <li>• <a href="#">Super and pension age calculator</a> – finds out when you can access super and apply for the pension</li> <li>• <a href="#">Account-based pension calculator</a> - works out whether you can make your pension last longer</li> </ul>
<p><b>Investing</b></p>	<ul style="list-style-type: none"> <li>• <a href="#">Investing Challenge</a> - A new resource produced in consultation with the ASX, ASA and other key stakeholders help consumers improve understanding of key investing concepts and learn skills such as how to judge a good investment, how to diversify your portfolio and how to identify the risks of different products.</li> <li>• <a href="#">Financial Advisers Register</a> – allows consumers to check up on an adviser before getting advice</li> <li>• <a href="#">Managed funds fee calculator</a> – works out how much your managed fund could be worth in the future</li> <li>• <a href="#">Margin loan calculator</a> – allows consumers to learn how the amount you borrow can affect potential gains and losses</li> </ul>

<b>Mortgages</b>	<ul style="list-style-type: none"> <li>• <u>Mortgage switching calculator</u> –works out if you would save money switching to another mortgage</li> <li>• <u>Reverse mortgage calculator</u> – works out how interest rate and house price changes can affect your equity</li> </ul>
<b>Loans, credit and debt</b>	<ul style="list-style-type: none"> <li>• <u>Credit card calculator</u> - finds out how much you can save by paying off your credit card faster</li> <li>• <u>Interest-free deal calculator</u> – works out how much you need to repay monthly to avoid interest</li> <li>• <u>Payday loan calculator</u> - calculates how much a payday loan will really cost you</li> <li>• <u>Rent vs buy calculator</u> - works out the cost of renting electrical goods or furniture (with a consumer lease) versus borrowing money to buy them</li> <li>• <u>Personal loan calculator</u> – works out how much you could borrow and what your repayments would be, how much you can borrow and how you can repay your loan sooner</li> <li>• <u>Financial counsellor online search</u> - finds a free counsellor to help solve your money problems</li> </ul>
<b>C. Publications</b>	
<b>Financial decisions at retirement</b>	A guide to help you make the most of your money in retirement and avoid costly mistakes.
<b>Super Decisions</b>	Choosing a fund and investment strategies, building your super, changing funds, keeping
<b>Super and Us Mob - Moneysmart</b>	This booklet helps Indigenous Australians understand super and how to get the most out of it for themselves and their family.
<b>Financial advice and you</b>	A guide to choosing and working with an adviser
<b>Investing Between the Flags</b>	A practical guide to investing
<b>Protect Yourself from Scams</b>	A short brochure explaining how to spot and report credit card, bank account and investment scams.
<b>Paying for Funerals - Moneysmart</b>	Ways to pay for funerals and what to look out for before signing up to anything.
<b>You Can Complain</b>	Guide to dealing with disputes over financial products
<b>Do you need urgent help with money? - Moneysmart DL brochure</b>	A brochure on where to go for help when you're having money problems