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5 January 2026

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Submission re: Combatting financial abuse perpetrated through coerced directorships

Super Consumers Australia welcomes the opportunity to provide feedback on Treasury's consultation for Combatting financial abuse perpetrated through coerced directorships (the Consultation). This is an important step in recognising both the significant prevalence of financial abuse and the harm caused through coerced directorships - not just for victim-survivors and their families but to the integrity of Australia's business and tax system. The consultation paper covers several important aspects of this complex issue and we commend Treasury on the level of detail being considered. To better reflect the lived experiences of financial abuse victim-survivors and achieve more widespread impact, we recommend taking a systems and risk-based approach to addressing this issue, including expanding the Consultation's scope to other business structures, such as self-managed super funds, and a stronger focus on the role of intermediaries.

Super Consumers Australia is the people's advocate in the superannuation sector, founded in 2013. Super Consumers Australia advances and protects the interests of people on low and middle incomes in Australia's superannuation system. The details of our recommendations are outlined below, which have been developed with the input and insights of the UNSW Tax and Business Advisory Clinic. Our submission also aligns with and supports the recommendations in the Economic Abuse Reference Group's (EARG) submission on this Consultation.

Recommendations

1. Take a systems and risk-based approach

Financial abuse and coerced directorships are insidious, systemic issues, not isolated to a handful of processes within the current business and tax systems. While many of the topics and potential solutions raised in this Consultation are important, it is difficult to determine the extent to which they will fully address loopholes that enable coerced directorships to occur as the system involves multiple government agencies, processes and other actors. For example, the Consultation paper covers the director registration process but has not included details for the company registration process, which is closely linked. We recommend taking a more holistic approach that looks at the end-to-end system and assessing where loopholes exist, why they exist and how they can be addressed. To do this effectively will involve 'thinking like a perpetrator'. We also recommend taking a risk-based approach and focus on parts of the system with the greatest likelihood of abuse and significant impact of harm. Solutions should be considered along the spectrum of prevention, identification and resolution of financial abuse, with elimination (prevention) of the risk as the preferred outcome, where possible.

2. Expand the Consultation's scope to other business structures including SMSFs

Other business structures must be considered as part of a holistic approach to reforming Australia's business and tax system. The EARG submission to this Consultation highlighted that financial abuse occurs across multiple business structures (see case work data from the UNSW Tax and Business Advisory Clinic, Redfern Legal Centre and the organisation Each, and Case Studies 1 and 3). Focusing on companies only risks leaving loopholes behind in the system that will enable perpetrators to continue using or even favouring other business structures for financial abuse. Limiting the reform's scope also risks introducing additional complexity in implementation as many of the reform processes (i.e. director appointments and removals) will affect other business structures, where the impact on these structures have not been fully considered.

Self-managed super funds (SMSFs)

SMSFs are established as a trust, with two trustee structure options – individual trustees (where members are the trustees) or a corporate trustee (a company acting as trustee for the fund). Under a corporate trustee structure, each member of the SMSF must be a director of the corporate trustee and bound by the same requirements and obligations as company directors of other business structures. SMSFs now represent almost a quarter of the Australian superannuation sector, with over $1 trillion in assets and over 1.2 million members (as at June 2025, ATO). Corporate trustee SMSFs are also increasing, reflecting 88 per cent of funds established in 2022-23 and overall, 70 per cent of all active SMSFs are corporate trustees (ATO, Self-managed superannuation funds: A statistical overview 2022-23).

The nature of SMSFs creates opportunities for financial abuse, where members are also trustees responsible for decision-making of the fund. The trustee structure can be a vector for coercion in situations where control of the SMSF sits with a spouse. This is coupled with minimal oversight within a lower regulation environment. With the growth of SMSF establishments, the community sector is seeing increasing use of SMSFs as a tool of financial abuse, often involving other business structures and complex tax and legal issues. Financial abuse via SMSFs can include:

- Perpetrators pressuring victim-survivors to transfer their superannuation from an industry or retail fund into a joint SMSF to gain coerced or unauthorised (fraudulent) access to these funds.
- SMSFs used to bind victim-survivors into trustee or directorship roles either through coercion or without their knowledge or consent.

For many women, superannuation is the most significant and often only asset they hold in their own name. Financial abuse in SMSFs not only binds victim-survivors through coerced directorships but has lifelong impacts on their retirement future. Further, removing a victim-survivor as a director of the SMSF may alleviate director-related penalties, but the other party remains in control of the victim-survivor's superannuation held within the SMSF. This Super Consumers article and the case study below from the UNSW Tax and Business Advisory Clinic further highlight the significant risk and harm associated with SMSFs.

Case study 1 - Financial abuse through SMSFs and other business structures

Zoe*, a medical professional and mother of two, escaped over 20 years of physical, psychological, and financial abuse in 2022. Her former husband remains in their $5 million family home while she and her children have lived in a refuge for 3 months and are now in transitional housing. Zoe and her former husband have their own medical practice, including premises, so there is a business, trust, self managed super fund, but he refuses to lodge tax returns, has manipulated his business income and is no longer paying the mortgage, strata or rates, thereby deliberately forcing arrears in their joint names. He has never paid any child support. Zoe has received repeated ATO notices of outstanding tax obligations in their joint affairs, including a final warning letter as the self managed super fund tax returns are long overdue (risking fines and imprisonment). However, other than putting a hold on recovery/lodgement action there are few options available to the ATO while a family law matter is on foot. Zoe's former husband has told her that he intends to make her bankrupt, which is a real risk. This would result in her losing standing in family court and she would likely also lose child custody.

Not the client's real name

3. Mandate professions uplift obligations of intermediaries to address financial abuse and consequences for breaches

The Parliamentary Joint Committee on Corporations and Financial Services (PJC) report on financial abuse (December 2024) highlighted the critical role financial advisers and accountants play as frontline service providers in both preventing and enabling financial abuse. We reiterate Recommendation 38 from the report "that accounting, financial planning and financial advice industry bodies develop and review ethical obligations of their profession in relation to receipt of instructions which may have a financial abuse motive and institute accompanying penalties for members who actively enable or facilitate financial abuse on behalf of their clients where there is no other reasonable basis underlying the instructions given by the client."

An estimated 2.8 million Australians reported experiencing financial abuse (2021/22 ABS Personal Safety Survey). Yet there is approximately only 233,120 accounting (214,100 from Jobs and Skills Australia 2025), financial advice (15,160 from ASIC 2025) and SMSF audit (3,860 from CPA Australia 2025) professionals across Australia who may be involved in establishing or auditing business structures, including SMSFs. While not all financial abuse involves business structures, this still highlights the likelihood of one professional being involved – either knowingly or unknowingly – in multiple cases of financial abuse across their client base.

A year after the PJC recommendations, there has been limited progress made by individual professions, and without government intervention, this is unlikely to change. We recommend mandating the accounting, audit and financial advice professions uplift minimum member standards with obligations to proactively identify, prevent and disrupt or respond to financial abuse, and articulate the consequences for breaching these obligations.

For financial advisers and SMSFs in particular, the Australian Financial Complaints Authority (AFCA) reported an 18 per cent increase in their 2024-25 investments and advice complaints, compared with the previous year, with complaints alleging failure to act in the client's best interest rising by 124 per cent. Further, a recent ASIC review of SMSF establishments (REP 824) identified that over 60 per cent of cases failed to demonstrate compliance with the best interest duty and over a quarter of cases raised significant concerns about client detriment relating to recommendations to set up an SMSF. The heightened scrutiny of the financial advice sector with the recent Shield and First Guardian investment collapses presents an opportunity to strengthen the professional standards, training and awareness of this sector with regards to preventing and identifying coerced directorships and financial abuse.

Yours sincerely,

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