



**Phone** 02 9577 3333

**Email**

[enquiries@superconsumers.com.au](mailto:enquiries@superconsumers.com.au)

**Website** [www.superconsumers.com.au](http://www.superconsumers.com.au)

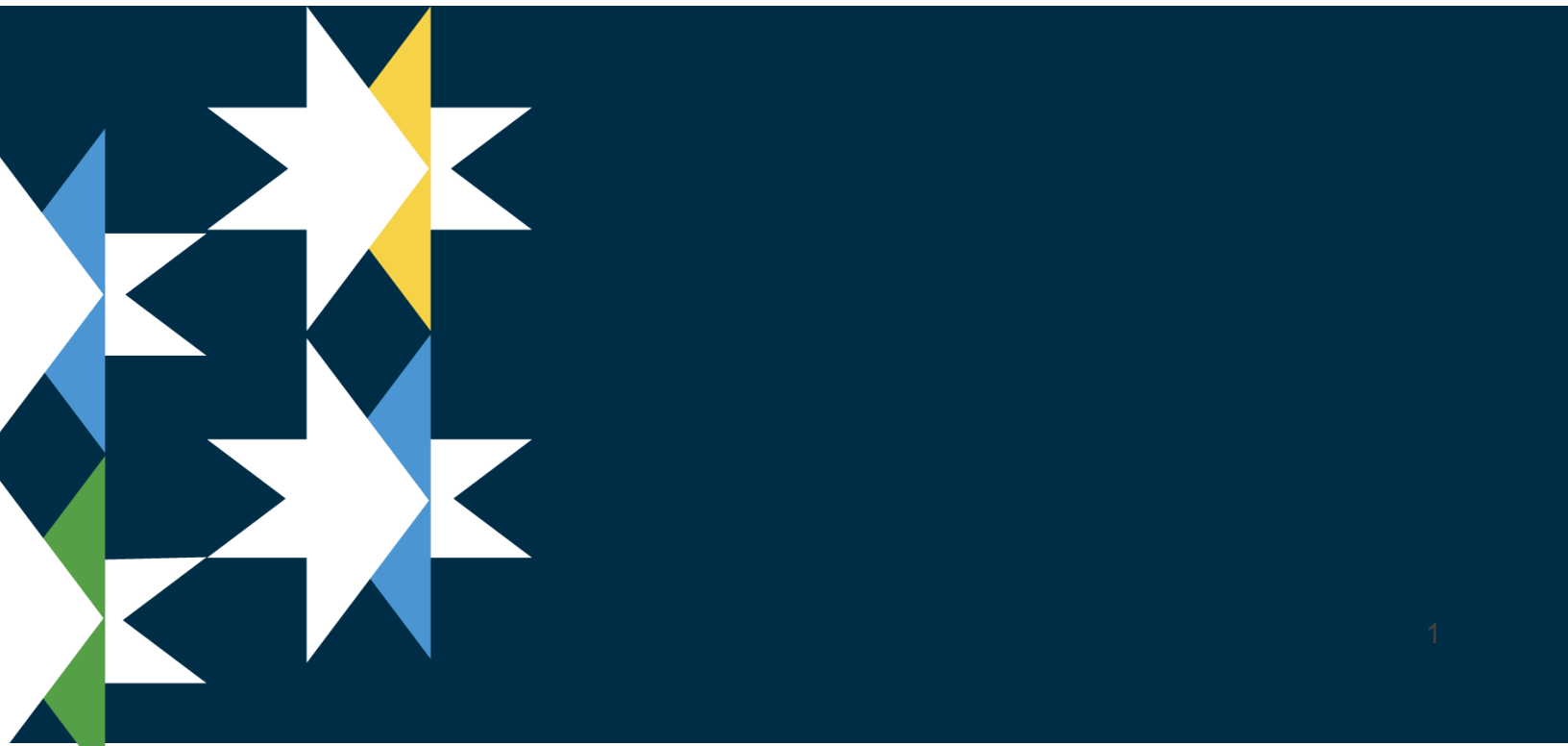
57 Carrington Road,  
Marrickville NSW 2204

**ACN** 163 636 566 | **ABN** 34 163 636 566

# Submission: Enhancing member protections in the superannuation system

Jun 5, 2026

Super Consumers Australia is the people's advocate in the superannuation sector. Super Consumers Australia advances and protects the interests of people on low and middle incomes in Australia's superannuation system. It was founded in 2013 and received funding for the first time in 2018.



# Table of Contents

Table of Contents	2
Introduction	3
Take Your Super Back	3
Considerations for the overall reform package	5
Impact of misconduct on consumers	5
Holistic approach to reform needed	6
Proposed reforms will push harm into SMSFs	6
SMSF trustees are a diverse group of people	6
Interactions among the reforms	7
SMSF protections must be strengthened	8
Part 1: Strengthening platform governance	10
Strengthening governance requirements for platform trustees (proposal 1)	10
There is already a definition of “platform trustee”	10
Mandatory holding limits and due diligence requirements should be codified (options 1.1 and 1.2)	11
Conflicted arrangements and payments should be banned (option 1.3)	11
Third party trustees should be better regulated not banned (option 1.4)	12
Strengthening SIS Act penalties (proposal 2)	12
Part 2: Superannuation switching	14
Introduction of a waiting period for inter-fund superannuation switching (proposal 3)	14
Cooling off provisions are generally ineffective	14
Switching obligations should apply to switches to SMSFs and platform products (option 3.2a)	15
Recommended obligations on funds re switching requests	16
Obligations on exit fund	16
Obligations on entry fund (including option 4.2c)	19
Retail exposure to certain managed investment schemes should be limited	20
Limit fee deductions for switching-related financial advice (proposal 4)	20
Government should introduce maximum advice fee caps	20
Part 3: Compensation for Members	23
Requiring trustees to compensate members for eligible losses (proposal 5)	23
Trustees should be required to compensate members for eligible losses (option 5.1)	23
APRA should be given the power to set trustee reserves based on risk	23
ASIC should be given a remediation direction power (option 5.2)	24

# Introduction

Super Consumers Australia welcomes the opportunity to comment on the package of three consultation papers to address the harms most recently demonstrated in the collapses of the Shield and First Guardian Master Funds:

- Enhancing member protections in the superannuation system;
- Compensation Scheme of Last Resort (CSLR): Reform options to support ongoing sustainability; and
- Curbing lead generation activity.

This submission reflects on how the proposals contained in the three consultations interact with each other to form a comprehensive response to consumer harm. It also addresses the specific proposals contained in the ‘Enhancing member protections in the superannuation system’ consultation paper (the “consultation paper”).

We have made a separate submission jointly with other consumer organisations dated 5 June 2026 in response to the ‘Compensation Scheme of Last Resort (CSLR): Reform options to support ongoing sustainability’ consultation .

We have also made a separate submission jointly with other consumer organisations and led by the Consumer Action Law Centre dated 29 May 2026 in relation to the ‘Curbing lead generation activity’ consultation.

## Take Your Super Back

In 2025, Super Consumers received funding from the Australian Securities and Investments Commission to provide independent and trustworthy information and self-help tools to people who invested in the Shield and First Guardian Master Funds through a dedicated one-stop-shop website: [takeyoursuperback.com](https://takeyoursuperback.com).

Through the development and delivery of the resources available on the website, we engaged with many of the people who lost money after being switched into Shield and First Guardian. Many impacted investors shared with us their experiences of being switched and the harms they have experienced in the aftermath of the scheme collapses. This has given us unique insight into what happened, why it happened, the significant harms switching causes and the types of interventions that might be successful in preventing these harms in the future. Our submission is informed by these insights and we have provided case examples throughout this submission to illustrate how proposed reforms may or may not be effective in addressing the harms sought to be prevented.

## Summary of Recommendations

**Recommendation 1:** Government should implement a package of complementary reforms in relation to SMSFs to ensure that misconduct is not shifted from platforms to SMSFs the proposed reforms.

**Recommendation 2:** Treasury should use APRA's definition of platform trustee to define the group of trustees to whom additional governance obligations will apply.

**Recommendation 3:** The Government should provide APRA with the power to designate an investment menu as a platform.

**Recommendation 4:** Mandatory holding limits and due diligence requirements should be introduced immediately via APRA prudential standards.

**Recommendation 5:** Conflicted arrangements and payments should be banned. Where the conflict payments or arrangements relate to a platform, obligations related to those payments or arrangements should apply equally to platforms whether they are offered through an APRA-regulated fund or outside it.

**Recommendation 6:** Treasury should not introduce legislation to prohibit third party "trustee for hire" operating models.

**Recommendation 7:** Penalties under the *Superannuation Industry (Supervision) Act 1993* should be aligned with those under the *Corporations Act 2001* such that similar breaches have similar consequences.

**Recommendation 8:** Government should introduce enhanced trustee obligations on switches from APRA-regulated funds to platform funds and SMSFs (Option 3.2a).

**Recommendation 9:** Trustees should be required to have robust financial safety frameworks that cover scams, fraud and financial abuse. This should include required minimum interventions by transferring funds on high-risk super switching.

**Recommendation 10:** Any prescribed communications to consumers about switching should be rigorously consumer tested to ensure that they achieve the intended outcomes for consumers.

**Recommendation 11:** Government should introduce obligations on entry funds for onboarding, monitoring and offboarding financial advisers (option 4.2c).

**Recommendation 12:** Apply stronger safeguards and oversight requirements to higher-risk MISs, particularly where they are distributed through superannuation platforms or switching arrangements involving retirement savings.

**Recommendation 13:** Government should set mandatory fee caps on advice fee deductions. Any changes to advice fee rules should also apply to SMSFs. Accounting and audit obligations relating to SMSFs should be strengthened to provide greater oversight of advice fee charging in SMSFs.

**Recommendation 14:** APRA should collect more granular data on advice fees.

**Recommendation 15:** Government should amend the performance test to include advice fees in the net returns calculation for platform products.

**Recommendation 16:** APRA should amend *Prudential Standard SPS 114 Operational Risk Financial Requirement* to allow APRA to direct trustees to use the ORFR to compensate members for eligible losses, and allow APRA to vary the amount held as an ORFR. The Government should make any amendments to the *Superannuation Industry (Supervision) Act 1993* required to give APRA power to amend the prudential standards.

**Recommendation 17:** Government should give APRA the power to define the eligible losses in each case.

**Recommendation 18:** Government should give ASIC a remediation directions power, which includes the ability to impose conditions on remediations from superannuation funds.

# Considerations for the overall reform package

## Impact of misconduct on consumers

The investors who were targeted by switching schemes were smart, hard-working people on low to middle incomes, such as nurses, trades people and small business owners. Most of them told us they understood that they needed to have a good retirement plan and felt that getting financial advice from a licensed financial adviser was a responsible decision - what they were supposed to do. Many told us they were looking for relatively low-risk products that would deliver steady returns over time. They were not looking for “get rich quick” schemes.

Investors spent significant amounts of time on the phone with lead generators and advisers talking through their objectives, needs and financial situations. Lead generators built rapport and planted doubt about the competence and performance of people’s existing super funds. They were persistent, but not high pressure in the stereotypical sense. They presented themselves as highly-experienced and experts in their field. People trusted the advice they were provided and felt that they were doing the right thing by taking action to engage with their super.

It is now clear that what investors were *told* was very different from what they were *sold*.

Following the collapse, many impacted investors expressed feeling paralysed with grief, panic and shame at the loss of their retirement savings, particularly for those who were relying on income from super to meet their daily living expenses. This paralysis has made it difficult for investors to engage with the complexity of the situation and has contributed to the relatively low number of complaints to the Australian Financial Complaints Authority (AFCA) compared with previous collapses (of the approximately 11,000 people whose money was invested in the Shield and First Guardian Master Funds, just over 3,000 people have complained to AFCA (ASIC testimony at [Parliamentary Joint Committee on Corporations and Financial Services](#) hearing on 29 May 2026). Based on feedback from experts and people directly impacted by the collapse, the resources we have provided through our website have gone a fair way to assisting investors overcome this paralysis. But, there is still a long way to go to ensure all people impacted are appropriately compensated.

The volumes of complaints AFCA is dealing with, and the various issues preventing payment of successful complaints by the CSLR, have contributed to an excruciatingly long, drawn out and inefficient ordeal for investors. Many of these people were meant to be enjoying their retirement, not trying to manage financial hardship and the stress of protracted disputes with financial firms. It will likely be years before all complaints are finally resolved.

In the meantime, investors have told us of the extreme emotional and physical toll that delays in compensation and uncertainty about the future has had on them. Investors have reported a range of medical conditions that have been caused or exacerbated by emotional distress. [Trigger warning] We understand that at least one person has died by suicide in response to losing their life savings in one of the collapses. We expect that there will be long term costs to people’s wellbeing associated

with these conditions, which will play out over years and will likely be far greater than the immediate financial costs.

The faster and more efficiently our system can deter misconduct and compensate for past losses, the lower the costs collectively to our community as a whole. It is imperative that this package of reforms effectively and comprehensively achieves both of these goals.

## Holistic approach to reform needed

The Government now has an opportunity to make significant structural reforms to protect people and their retirement savings for years to come and drive an 'A' class retirement system. Reforms must be enduring and future-proofed, not just temporary incremental measures that mop up harmful past conduct and push it somewhere else. They must apply consistently across all superannuation products, including self-managed super funds (SMSFs), in order to close loopholes that expose consumers to harm. Reforms must address the full chain of entities involved in superannuation from lead generators to responsible entities of managed investment schemes (MISs).

Given the complex and adaptive nature of financial misconduct and abuse, an effective regulatory response requires following the money at every stage of the process, identifying and closing each weak link across the ecosystem. The package of reforms must be considered holistically, with financial safety examined across all possible areas of harm, known and unknown.

## Proposed reforms will push harm into SMSFs

### SMSF trustees are a diverse group of people

As of December 2025, according to [ATO data](#), there were approximately 664,000 SMSFs with 1.2 million members and assets of \$1 trillion. SMSFs are a significant part of the overall retirement system. The majority of SMSF members are over the age of 45 (85%). Most accounts are in the accumulation phase (55%) but most assets are in the retirement phase (65%). About 58% of SMSF members earn \$100,000 or less per year. About one third of all SMSFs have assets less than \$500,000.

In 2022, the [ATO reported](#) on its research showing that there were five types of SMSF trustees:

- 21% confident investors
- 25% pragmatic managers
- 18% informed delegators
- 23% trusting delegators
- 13% unprepared trustees.

That research demonstrates that over a third of SMSF investors ('trusting delegators' and 'unprepared trustees') are at particularly high risk of being taken advantage of by a dodgy financial adviser.

In [Report 576](#) of 2018, ASIC surveyed 467 SMSF holders and found:

- 32% of members found running their SMSF to be more **costly** than expected (compared with 9% of members who found it less costly than expected) and
- 38% of members found running their SMSF to be more **time consuming** than expected (compared with 15% of members who found it less time consuming than expected).
- 33% of members **did not know** that an SMSF must have an investment strategy;
- 30% of members had **no arrangements** in place for their SMSF if something happened to them;
- 29% of members thought they were entitled to compensation in the event of theft and fraud involving the SMSF; and
- 19% of members did not consider their insurance needs when setting up an SMSF.

Considering all of this regulator research together, it cannot be said that SMSF investors as a group:

1. Understand what is involved in running an SMSF or understood it before creating one,
2. Understand what protections in the APRA regulated system they are giving up,
3. Are high net wealth retirees who can afford large losses.

## Interactions among the reforms

Treasury is proposing to prohibit the charging of advice fees on switching from superannuation accounts. To enforce this protection, Treasury is also proposing to put additional obligations on platform trustees, including reviewing deductions made after switches, global fee caps and adviser monitoring obligations. We support these reforms because they will make it difficult for financial advisers to charge excessive fees and to use platforms as a vehicle for the effort. Additional adviser and licensee onboarding and offboarding obligations will also tend to move unscrupulous financial advisers away from platforms as the platforms cease to do business with them.

However, none of these protections apply to SMSFs. Unscrupulous financial advisers can simply avoid the proposed requirements for platforms by moving their poor conduct to where the consumer protections are weaker. That place will be an SMSF.

Where a financial adviser recommends an SMSF, it will still be possible to charge inappropriate switching fees (whether or not they are banned) because no one will scrutinise them. It will also be possible to charge SMSF establishment and maintenance fees, the services for which tend to operate alongside advice as an integrated business. People who previously were recommended to join a platform fund will be recommended to start an SMSF, potentially even using the same

investment platform offered outside an APRA-regulated fund. Except there will be no one to scrutinise the investments on the platform, so SMSF assets will still be invested in risky products. No one will be able to supervise whether the adviser is being compensated to recommend the risky products, since there will be no independent trustee involved.

Many of Treasury's proposals in the broader consultation package do not apply to SMSFs by their nature. For example, SMSFs do not have an issuer and therefore the design and distribution obligations cannot be amended to limit lead generation practices in relation to SMSFs.

When those investments collapse, SMSF trustees will have no recourse for the bad advice they received, because Treasury is proposing to reduce, or even remove, coverage of the CSLR to SMSFs.

If the proposed reforms go ahead without also introducing effective protections for SMSFs, all signs are that there will be an SMSF investment collapse impacting thousands of devastated people, sold into SMSFs, invested in things that weren't appropriate for them (or were poorly managed). And they will have no recourse. Zero compensation.

This is the complete opposite of what we understand that the Government wants to achieve.

## SMSF protections must be strengthened

It is imperative that Treasury considers the entire ecosystem of SMSF establishments in order to identify where weak protections create financial incentives for misconduct. Leveling the playing field - making it equally hard for bad advisers to engage in misconduct regardless of product sold - is the only way to prevent the next investment crisis.

In particular:

- The lead generation ban - including the prohibition on unlicensed communication and hawking - need to apply to all superannuation products, including SMSFs;
- Financial advisers need to have specific obligations when recommending SMSFs to explain the nature, responsibilities and consequences of starting an SMSF to all potential trustees, including what protections are lost;
- People considering opening an SMSF should be required to undertake an online course designed by ASIC (similar to the course many learner drivers are required to take) which explains the nature, responsibilities and consequences in plain English before an SMSF can be created;
- APRA-regulated funds should have specific obligations when processing SMSF rollover requests to make appropriate inquiries to ensure that the member has authorised the switch and understands the consequences of the switch in terms of new obligations and lost protections;
- SMSF trustees should always be treated as retail clients and should not be allowed to invest in certain high risk managed investment schemes,

- Obligations should be placed on investment platforms to require the same due diligence for investments outside APRA-regulated funds as inside them,
- SMSF auditors should be required to report on the fund compliance with advice fee charging rules and report to ASIC the names of any financial advisers who breach these rules;
- ASIC should be given additional funding to take enforcement action against SMSF auditors who fail in their obligations.

Treasury should also ensure that the ATO collects and publishes more granular data about SMSFs going forward, so that there is transparency of the effect of these reforms over time. This would allow quick identification of the effectiveness of the reforms or any unintended consequences.

## Recommendations

**Recommendation 1:** Government should implement a package of complementary reforms in relation to SMSFs to ensure that misconduct is not shifted from platforms to SMSFs the proposed reforms.

# Part 1: Strengthening platform governance

We strongly support the objective of Treasury's reform agenda in this area. With some additional considerations, these changes have the potential to meaningfully shift the dial on consumer protection. In light of the Shield and First Guardian collapses, it is more important than ever to uplift trustee obligations to prevent a similar failure from happening again. Australian consumers are asked to place enormous trust in the superannuation system, and their trust should not be exploited. Meaningfully strengthening platform governance requirements in an enforceable way can help minimise the risk from future harm.

## Strengthening governance requirements for platform trustees (proposal 1)

### There is already a definition of “platform trustee”

Many industry and retail funds offer products which require members to make direct investment selections (industry funds call these “member-direct menus” and retail funds call these “platforms” or “wraps”). These investment menus require member selection: there is no “default” option available. The key identifying feature of a platform is that the trustee is requiring the member to build their investment portfolio - the trustee does not provide a ready-made solution that the member will be put in if they do not make a choice.

There is no need to create a new definition of a platform trustee. We support using the current APRA definitions of ‘platform’ used in APRA reporting standards:

- Platform = investment menu where the member must direct the acquisition of investments (with or without the assistance of an adviser).
- Platform fund = a fund which includes a platform investment menu.
- Platform trustee = a trustee which offers a platform fund.

This definition is the product of wide consultation. It applies to all funds regardless of trustee type (industry, retail etc). It has been in use for some time. Trustees have self-classified their investment menus as platforms and are familiar with how the definition operates. There is data that has been collected using this definition, meaning that it will be easier to continue to collect data on this same cohort going forward.

It is possible that some superannuation trustees have not been classifying their investment menus appropriately. To deal with this, if there remains any uncertainty or ambiguity about the definition, there should be a power for APRA to designate that a particular investment menu is a platform.

Governance obligations should apply to all trustees that offer platform investment menus. Good investment governance is good for all members. To set a limit (e.g. 10 investment options) below

which additional obligations will not apply (as is proposed), will only encourage trustees to circumvent the proposed obligations by designing their offerings to avoid the obligations (e.g. reducing to 9 options). This serves no one. It is not relevant how many options people are given, whether the options are pre-mixed by the trustee or not, or the legal structure of the trustee - what is relevant is how those investments are onboarded, monitored and offloaded.

## Recommendations

**Recommendation 2:** Treasury should use APRA's definition of platform trustee to define the group of trustees to whom additional governance obligations will apply.

**Recommendation 3:** The Government should provide APRA with the power to designate an investment menu as a platform.

## Mandatory holding limits and due diligence requirements should be codified (options 1.1 and 1.2)

We strongly support the introduction of mandatory holding limits and codified due diligence arrangements (options 1.1 and 1.2). These are clear weaknesses that have been called out by both APRA (see: ['APRA calls for stronger action by platform trustees'](#) 2025) and ASIC (see: [ASIC v Equity Trustees \(2026\)](#) Statement of Claim, [ASIC v Diversa Trustees \(2026\)](#) Statement of Claim, [ASIC v Equity Trustees \(2025\)](#) Statement of Claim, [ASIC v Macquarie Investment Management Ltd \(2025\)](#) Statement of Agreed Facts and Admissions, [ASIC v Netwealth Investments Ltd \(2025\)](#) Statement of Agreed Facts and Admissions).

In ASIC's enforcement action against the four trustees involved in Shield and First Guardian, the poor due diligence, lack of holding limits, and the lack of adherence to them if they did exist, have been called out as poor practice that led to members inappropriately investing all of their money in the Shield and First Guardian investment options, and losing it all.

Holding limits, and strong trustee adherence to them, would significantly reduce the harm faced by consumers, as they would not be able to invest all of their money in inappropriate investments.

APRA's investment governance prudential standard should be updated to include requirements in relation to both mandatory holding limits and due diligence arrangements.

## Recommendations

**Recommendation 4:** Mandatory holding limits and due diligence requirements should be introduced immediately via APRA prudential standards.

## Conflicted arrangements and payments should be banned (option 1.3)

While we have limited insight into the types of arrangements and payments that Treasury is referring to in the consultation paper, we generally support changes to reduce financial incentives for trustees to prefer the interests of platform providers, financial advisers, investment funds or any other entities over the interests of the funds' members. In our view, these arrangements are already in breach of trustees' fiduciary duties.

To the extent that platform providers are giving or receiving conflicted payments, any obligations relevant to platforms should be the same whether or not the platform is offered through a superannuation fund. This is because platforms are often offered to both APRA regulated superannuation funds and to SMSFs. There is no reason to justify exposing one group to conflicts of interest but not the other.

### Recommendations

**Recommendation 5:** Conflicted arrangements and payments should be banned. Where the conflict payments or arrangements relate to a platform, obligations related to those payments or arrangements should apply equally to platforms whether they are offered through an APRA-regulated fund or outside it.

## Third party trustees should be better regulated not banned (option 1.4)

We do not support banning the third party trustee operating model *per se*. This model is not unique to Australia and has the capacity to be independent and effective. We agree that there are serious flaws in how it is currently operating in Australia and that there is a need for stronger governance in existing trustees of this model in order to comply with existing obligations. That is a matter for APRA to better regulate. Legislating to ban the model without solving the core governance problems will simply drive those trustees to change only as much as the new law requires, without changing the fundamental governance failures.

### Recommendations

**Recommendation 6:** Treasury should not introduce legislation to prohibit third party "trustee for hire" operating models.

## Strengthening SIS Act penalties (proposal 2)

We support aligning penalties under the *Superannuation Industry (Supervision) Act 1993* (SIS Act) with those under the *Corporations Act 2001* (Corporations Act). Many of the SIS Act obligations are very similar to obligations under the Corporations Act, yet their penalties can vary widely. For

example, many of the obligations under section 52 of the SIS Act (the covenants) are similar to the licensing obligations under section 912A of the Corporations Act. It makes little sense for similar obligations to have such different penalties and creates barriers to APRA taking effective enforcement action, compared with ASIC. It also limits the tools available to ASIC to take action against trustee misconduct.

When the [ASIC Enforcement Review Taskforce](#) recommended strengthening penalties under the Corporations Act, ASIC did not have the jurisdiction in superannuation it does now; however, the rationale contained in that report is equally applicable to the SIS Act.

The existing civil penalty provisions under the Corporations Act have had the benefit of judicial consideration as they apply to superannuation trustees. Those provisions include consideration of the impact of the penalty on the members of the fund, which appropriately accounts for the fact that industry funds do not retain profits beyond necessary capital reserves. There is no need to create a new approach to applying civil penalties to superannuation trustees and to do so would create unnecessary ambiguity and undermine the goal of neutrality as between the SIS and Corporations Acts.

## Recommendations

**Recommendation 7:** Penalties under the *Superannuation Industry (Supervision) Act 1993* should be aligned with those under the *Corporations Act 2001* such that similar breaches have similar consequences.

## Part 2: Superannuation switching

We welcome Treasury's commitment to addressing the harms caused by superannuation switching; reforms in this space are long overdue. The focus of these reforms should be on strengthening trustee accountability rather than putting the onus on consumers to protect themselves. The obligation to prevent harm must rest with trustees, as they are best placed and have the power to prevent serious harm from occurring.

The focus of these reforms should not be on the time delay for consumers to change their mind, but rather on putting responsibility on trustees to do more to identify high risk transactions, and intervening to inform, protect and warn members of potential harm. We also call for platform trustees to take responsibility for who is in their product, as members who are ill-suited to platform investments should not be left exposed to harm.

We also warn against attempting to narrowly define the harmful behaviour, by only imposing obligations on particular types of investment options within funds and certain sales tactics. The predatory practices have already evolved since Shield and First Guardian, and will continue to evolve in the future. If the regulatory settings are too narrow, they will only stop past harms from re-occurring, rather than broader settings which will also prevent a wider range of future harms.

### Introduction of a waiting period for inter-fund superannuation switching (proposal 3)

#### Cooling off provisions are generally ineffective

As noted in our 2025 submission to the ACCC ([SCA Submission to ACCC Unsolicited selling and lead generation review](#)) and Consumer Action's Designated Complaint to the ACCC [on unsolicited selling](#), cooling off provisions do not work. They rely on customers taking action to back track on their ownership of something, or their commitment to an agreement. [Academic research](#) has shown that the vast majority of people do not do this. The waiting period proposal is a version of cooling off, but relies on customers to opt in to complete the transaction. The challenge with this approach is that lead generators and financial advisers are financially incentivised to encourage consumers to opt in. They will find a way to help their victims across the line so they can cash in on big fees.

Given the design similarities, we caution Treasury from using the efficacy of the deferred sales model for add-on insurance as translatable to super switching. The deferred sales model in add-on insurance separates the principal sale (e.g. a car) process from the sale of subsequent products (e.g. add-on insurance). This gives a consumer a mental break between the product they wanted to buy and add-ons that they may subsequently decide are not important. This separation of products does not exist in super switching. The consumer has been convinced that the super switch is the valuable thing they are obtaining. Providing greater time is unlikely to displace that decision.

The consultation paper erroneously suggests that people have been convinced to switch their super quickly with high-pressure sales tactics, and allowing a short cooling off period will give the person a chance to change their mind. Through Shield and First Guardian, we have seen that the super switching process was often slow, with the lead generators and financial advisers building trust over time, and destroying trust in the person's current super fund. Treasury has not accurately described how the harm occurs in the consultation paper.

### Anna's story

Anna (not her real name) was cold called by an advice firm offering a no-obligation super valuation. It took months for her to agree to switching.

“What followed was not a quick or impulsive decision. Over several months, close to six, I had multiple phone calls and meetings where we went through my existing super, my goals, and, importantly, my risk tolerance. I was very clear that I wanted low to medium risk. In every part of my life, I'm conservative and considered. I don't jump into things without thinking them through, and I tend to over-research rather than rush.”

Noting the severe limitations of this approach, it might be made more effective if there were substantive obligations on funds, or an independent party, to intervene where appropriate. Rather than focusing on the length of a delay for consumers, the focus should be on enhancing obligations to identify and intervene in high-risk superannuation switching.

## Switching obligations should apply to switches to SMSFs and platform products (option 3.2a)

The enhanced trustee obligations should apply to inter-fund superannuation switching where a member is moving from a trustee-directed environment (the pre-mixed options in industry, corporate, public sector funds or retail master trusts) to an environment where the member may be directing the investments (option 2a). This would involve any switch from a non-platform RSE to a platform RSE or SMSF, where a platform RSE is an RSE with a platform investment menu (i.e. member-direct menus in industry funds or wrap investment menus in retail funds). SMSFs must be included as there is a much higher risk of financial abuse, scams and fraud in SMSFs.

We do not support option 3.1 (applying the obligations to all switches) because the additional frictions are not proportionate to the lower risk associated with someone switching between trustee directed products. Although option 3.2b appears to be more tailored to the specific harm experienced in Shield and First Guardian, there are other harms that arise in relation to “platform RSEs” and it is critical that these reforms target future harms as well.

Although the harm caused to members who were persuaded to invest in Shield and First Guardian was ultimately because the investments were inappropriate, more recent versions of harmful super switching involve seemingly low-risk investments, such as well-known brands of ETFs, but charging excessive switching fees. Lead generators and financial advisers have evolved their approach to

harming clients, focusing less on funnelling members into high-risk MISs, and instead focusing on extracting maximum fees for a seemingly lower-risk investment portfolio.

This demonstrates that attempting to narrowly define which switching is harmful, and which is not, will simply be a fruitless endeavour as the bad actors will evolve their harmful practices faster than regulation can keep up. Further, any attempt to target only 'higher risk' products is likely to influence trustees to develop products to avoid these additional obligations rather than encouraging trustees to design products that meet the needs of members.

### Super Consumers lead generation 'shadow shop'

A Super Consumers staff member saw an ad on Instagram offering to do a free super health check. He spoke to a registered adviser who talked him through lots of different ways he could be financially better off if he switched funds. The adviser wanted to charge him a \$10,000 switching fee upfront, and \$3,600 per year ongoing fee.

### Recommendations

**Recommendation 8:** Government should introduce enhanced trustee obligations on switches from APRA-regulated funds to platform funds and SMSFs (Option 3.2a).

## Recommended obligations on funds re switching requests

### Obligations on exit fund

Funds have access to significant data about their members and former members. They can use that data to identify patterns and potential issues. Indeed, some funds are already doing this. However, not all funds are doing enough. The superannuation industry is far behind the banking industry in monitoring, flagging, and disrupting suspicious transactions. Consumers are familiar with, and used to, the protections that banks routinely put in place on transactions, but typically do not experience any of these protections with their superannuation accounts.

It is extraordinary that a transaction of \$1,000 from your bank account can trigger warnings and delays if your bank considers it high risk, but a rollover of \$100,000 between super funds has no security measures. The emphasis on straight-through processing for superannuation rollovers, rather than robust risk management, is dangerous to consumers and needs to be changed.

### Betty's story

Betty (not her real name), [whose story was published by Super Consumers](#), is a retired teacher living in a regional town. Being over 65 and worrying that she will not have enough super for retirement, she followed an opportunity she saw in a lead generation ad on Facebook. Betty was groomed over several weeks, and withdrew \$5,000 from her superannuation account every day for a month to purchase cryptocurrency. She lost her entire

retirement savings, a total of \$140,000, to the scam. No one from her superannuation fund contacted her to raise concerns about a suspicious transaction pattern.

We recommend that the obligations on trustees remain broad, and that superannuation trustees be required to have robust systems and processes to ensure the financial safety of their members. Disrupting harmful super switching should be incorporated into their frameworks against scams, fraud and financial abuse, not treated as a stand-alone problem. Minimum standards for these frameworks should be set by the Government, and practical guidance provided to assist with implementation.

One example of guidance for funds is the United Kingdom [The Pensions Regulator's guidance](#) on dealing with transfer requests. This operationalises the obligations on funds to ensure specific checks are made before complying with a member's request to transfer their pension, as part of the due diligence process for transfer requests. The UK guidance specifies:

- information that must be collected about a member, new fund and financial adviser;
- due diligence requirements, including eligibility of the new fund to receive the transfer, or it being low risk;
- as part of due diligence, a review of red flags and amber flags, such as a member not providing the required information, someone carrying out a regulated activity without the right regulatory status, or a member requesting the transfer after unsolicited contact, or being pressured to make the transfer;
- that funds must direct members to mandatory guidance from MoneyHelper (including the option to make an appointment with the UK equivalent of Services Australia's Financial Information Service);
- that funds must refuse the transfer where, on the balance of probabilities, there is a red flag present.

The exit fund (transferring trustee) should be required to:

- alert the member that the rollover to a platform fund or SMSF is high-risk;
- provide information about the risk so that the consumer can make an informed decision about proceeding;
- provide links to relevant Moneysmart guidance;
- report suspicious matters to the appropriate regulator;
- compensate members where the trustee has not adequately managed the risk leading to losses.

The list of topics outlined on page 34 of the consultation paper are all useful examples of the information that should be provided to members to explain the risk. We have heard that some superannuation trustees have expressed concern about member warnings during high risk switches. Clear regulatory obligations would ensure all parties have an understanding of the situations and content required to effectively warn consumers and leave little room for inappropriate or ineffective warnings.

The [Take Your Super Back](#) website has plain language information to help people impacted by the Shield and First Guardian failures. On this website we outline some [red flags and green flags](#) to help a person decide if they are dealing with a dodgy super switching scheme. We recommend that transferring funds be required to provide members with this list of red and green flags when they receive a request to switch into a platform fund or SMSF.

**Figure 1: How do you know if you're dealing with a good adviser?**

Super switching scheme	Good quality advice
 someone calls you out of the blue (or after you clicked on an ad) and offers you a free super health check, comparison or help finding lost super	 you contact a financial adviser through their website or by using ASIC's <a href="#">Financial Advisers Register</a>
 they tell you that your fund is underperforming, hiding fees or that other people from your fund aren't happy with its performance.	 they take the time to understand your needs and financial objectives – what's important to you – before giving you advice
 they charge you high advice fees and try to get you to agree to pay ongoing fees for annual advice without clearly explaining the value (the <a href="#">average annual adviser fee</a> currently sits at about \$4,700)	 the adviser will clearly explain their fee structure, which will typically vary depending on how much advice you want (e.g. how many topics and how complex your needs are)
 they tell you they can get you much better returns, often promising more than 11% over the long term (e.g. 10 years)	 they may recommend a new fund that has better past performance for the level of risk that you are ready to take on, but they will never promise you a quick win
 you don't spend much time talking to a financial adviser, or the salesperson tells you they have spoken to the adviser for you	 your financial adviser is your main point of contact and the adviser takes the time to answer any questions you have and understand what you're trying to achieve
 they put pressure on you to make a quick decision and sign documents during the call	 your financial adviser talks you through the plan, answers your questions, gives you a copy of their advice in writing and gives you time to read it over and think about it before signing anything
 their main focus is on selling you a product (e.g. investments or insurance) (and sometimes a specific investment option)	 your financial adviser gives you different product options – but also spends time advising you on other things, like tax tips or how the Age Pension works

Source: Take Your Super Back website, "Protect your super."

Trustees should also be required to provide members with links to materials on ASIC's Moneysmart relating to choosing a financial adviser, high-risk super switching, why you might choose a platform or SMSF and the protections you may lose when you move to these products.

Any prescribed communications to consumers about switching should be rigorously consumer tested to ensure that they achieve the intended outcomes for consumers.

## Recommendations

**Recommendation 9:** Trustees should be required to have robust financial safety frameworks that cover scams, fraud and financial abuse. This should include required minimum interventions by transferring funds on high-risk super switching.

**Recommendation 10:** Any prescribed communications to consumers about switching should be rigorously consumer tested to ensure that they achieve the intended outcomes for consumers.

## Obligations on entry fund (including option 4.2c)

We also support obligations on funds that consumers are switching into, including the onboarding, monitoring and offboarding obligations regarding financial advisers and licensees (option 4.2c).

Entry funds should also be required to collect a copy of the statement of advice (SOA) provided to each switched member. Requiring a copy would have the following benefits:

- It would allow the trustee to have information on what advice was actually provided.
- It would allow the trustee to better understand the overall quality of advice provided to its membership.
- It would support the trustee to satisfy itself that it was meeting its sole purpose test obligations, particularly with regards to advice charging and coverage.
- It would ensure that members have access to a copy of their SOA should they wish to make a complaint about it.

## Recommendations

**Recommendation 11:** Government should introduce obligations on entry funds for onboarding, monitoring and offboarding financial advisers (option 4.2c).

## Retail exposure to certain managed investment schemes should be limited

We support adopting a risk-proportionate approach to limiting retail exposure to higher-risk MISs rather than broad asset class restrictions. Due to the compulsory nature of superannuation in Australia, and the recent collapses of Shield and First Guardian, we need to go beyond what is implemented in comparable jurisdictions like the United Kingdom and the United States.

Applying stronger safeguards and oversight requirements from ASIC to higher-risk MISs would reduce consumer exposure to products with liquidity mismatches, complex or difficult-to-value investments that many consumers may not fully understand. As noted in the [joint Super Consumers Australia and CHOICE submission in March 2026](#) to the 'Enhancing oversight and governance of managed investment schemes' consultation, many consumers may not understand when they are exposed to different consumer protection settings within the superannuation system, particularly where MISs are offered through platforms or externally managed options. This would also reduce pressure on the CSLR by preventing harm at the product level.

### Recommendations

**Recommendation 12:** Apply stronger safeguards and oversight requirements to higher-risk MISs, particularly where they are distributed through superannuation platforms or switching arrangements involving retirement savings.

## Limit fee deductions for switching-related financial advice (proposal 4)

### Government should introduce maximum advice fee caps

The final report of the Financial Services Royal Commission recommended prohibiting the deduction of any advice fees from a MySuper account and deduction limitations on other types of accounts ([Financial Services Royal Commission Final Report](#), Volume 1 (2019), Recommendations 3.2 and 3.3 respectively). While bans are an attractive option, they are difficult to regulate in practice and could cause new issues to arise. There is a high risk of firms and advisers restructuring the way they charge fees to avoid and ultimately undermine the prohibitions. For example, they might offer the switching advice for free in exchange for consent to ongoing advice fee arrangements, or carve out the switching advice from a broader SOA for which they charge more.

We are also concerned that a fee charging prohibition may drive financial advisers to recommend clients move into SMSFs to either avoid the prohibition (if it does not also apply to SMSFs) or to avoid the scrutiny of anyone who would question the appropriateness of advice fees charged.

A more effective approach is the introduction of mandatory fee caps on switching-related advice deductions. While most trustees already have fees caps, they are not uniform. ASIC's May 2024 review ([Report 781: Review of superannuation trustee practices: Protecting members from harmful advice charges](#)) found significant variation in existing practices, and some set caps that heavily eroded customer balances. Mandatory consistent fee caps would create a level playing field which would make it harder to switch a customer in order to collect more fees. This would reduce the incentive for advisers to recommend whatever fund has the highest fees. The fee caps must be comprehensive in order to avoid loopholes that could result in the restructuring of fees to avoid the caps. Importantly, the fee caps must be mandatory. It is clear from ASIC's review that existing self-imposed caps do not offer adequate protections for consumers.

Any advice fee rules (bans or caps) should apply to SMSFs as well. In order to ensure that those rules are being complied with in SMSFs, it is necessary for an independent third party to verify that any fees charged comply with the new laws. To achieve this, financial reports for SMSFs should be required to clearly disclose the nature of any fees paid for advice and auditors should be required to certify that fees charged are compliant. Accountants and auditors should be required to report breaches of advice fee charging rules to ASIC.

It is also critical that there is better transparency of advice fee charging practices. There is currently a gap in the APRA reporting framework on super-switching fees: only total advice fees paid for the whole fund are included, making it impossible to map out super-switching fees. APRA needs to collect more granular data on advice fees, to aid comparison. For example, APRA should collect:

- number of members charged advice fees for switching/opening an account,
- dollar value of advice fees for switching/opening an account,
- number of members charged ongoing advice fees,
- dollar value of ongoing advice fees,
- number of members charged other advice fees,
- dollar value of other advice fees.

In addition, as ongoing advice fees are charged in relation to most platform funds, the quantum of fees paid should be included in the performance test of platform products. Only assessing administration fees for platform funds significantly underestimates the ongoing cost to members of platform funds. Since most of these products require the member to be advised in order to access the platform, advice is a mandatory cost that fundamentally alters the cost-benefit analysis of the product.

Tightening this data gap is essential for meaningful enforcement of the fee caps. While it remains, consumers remain exposed to unchecked switching costs charged by advisers.

Given the current lack of comprehensive data on financial advice fees in superannuation, further analysis would need to be undertaken by the Government to determine an appropriate level for a fee cap.

The Adviser Ratings [2025 Financial Advice Landscape Report](#) highlights that the median advice fee has jumped 18% in 2025 to \$4,668, and 67% over the last five years. Without caps, financial advice fees could continue to rise at these extraordinary rates.

## Recommendations

**Recommendation 13:** Government should set mandatory fee caps on advice fee deductions. Any changes to advice fee rules should also apply to SMSFs. Accounting and audit obligations relating to SMSFs should be strengthened to provide greater oversight of advice fee charging in SMSFs.

**Recommendation 14:** APRA should collect more granular data on advice fees.

**Recommendation 15:** Government should amend the performance test to include advice fees in the net returns calculation for platform products.

## Part 3: Compensation for Members

### Requiring trustees to compensate members for eligible losses (proposal 5)

#### Trustees should be required to compensate members for eligible losses (option 5.1)

Overall, we support option 5.1 to impose a legal obligation on *all* trustees to compensate their members for eligible losses; however, this should be implemented within the current Operational Risk Financial Requirement (ORFR) framework.

We strongly support an obligation on all super funds to compensate their members for failures where an act or omission on the part of the trustee led to member loss. Currently, members are at the mercy of the trustee's discretion to use the ORFR to remediate them. This process often occurs only after trustees have undertaken lengthy and expensive investigations aimed at avoiding the acceptance of blame. It is critical that the obligation to use reserves to fully compensate members is clear and the timing to make those payments is short. Delays cause real harm to members, particularly retirees living on small incomes who need access to their super.

Removing that discretion, and replacing it with an enforceable obligation, is the most straightforward way to ensure members receive timely compensation. The simplest way to handle this is for APRA to be given the power to direct trustees to use the ORFR to compensate members for eligible losses.

The value of this approach can be seen in the analogous decisions by Macquarie and Netwealth to compensate members for their capital losses. This saw more than a third of the total losses from Shield and First Guardian compensated immediately, greatly reducing the strain on victims.

#### APRA should be given the power to set trustee reserves based on risk

APRA's power to direct banks and insurers to increase or decrease the capital they hold has proved to be an effective tool for managing risks generally. Currently, APRA [Prudential Standard SPS 114 Operational Risk Financial Requirement](#) does not have a provision for APRA to increase the amount held by a trustee.

Investment risk is not the only risk that leads to major losses - governance and operating risk are also significant. Aligning capital requirements to risk provides an incentive for trustees to uplift their governance holistically and gives APRA more effective tools for driving compliance. Such an approach should apply to all trustees, regardless of structure or product offerings.

We also recommend that APRA be given the power to define what constitutes an eligible loss. APRA's existing supervisory relationships and understanding of the fund's governance mechanisms make it well placed to assess the facts and define the scope of loss.

Closing these gaps in APRA's current powers could reduce both waiting time and ambiguity in outcome for affected consumers.

## ASIC should be given a remediation direction power (option 5.2)

We also support option 5.2 to give ASIC a power to direct remediations beyond the ORFR. The power should include the ability impose conditions on the remediation such as:

- Which members are to be included
- How amounts are to be calculated
- How the remediation is to be effected
- What communications are to be made to affected members
- Deadlines for actions to be taken by the trustee
- Reasonable periods for members to make elections
- Other actions to be taken by the trustee (e.g. providing certain services to support affected members)

This power to impose conditions is necessary to account for the myriad of varying details that may arise in the future, which it is not practical to legislate for comprehensively.

### Recommendations

**Recommendation 16:** APRA should amend *Prudential Standard SPS 114 Operational Risk Financial Requirement* to allow APRA to direct trustees to use the ORFR to compensate members for eligible losses, and allow APRA to vary the amount held as an ORFR. The Government should make any amendments to the *Superannuation Industry (Supervision) Act 1993* required to give APRA power to amend the prudential standards.

**Recommendation 17:** Government should give APRA the power to define the eligible losses in each case.

**Recommendation 18:** Government should give ASIC a remediation directions power, which includes the ability to impose conditions on remediations from superannuation funds.