



ASIC

Australian Securities & Investments Commission

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Mr James Catchpole
Committee Secretary
Joint Select Committee on Cyber-Safety
PO Box 6021
Parliament House
CANBERRA ACT 2600
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Dear Mr Catchpole

Inquiry into Cyber Safety for Senior Australians

Thank you for inviting a submission from the Australian Securities and Investments Commission (ASIC) to the Inquiry into cyber safety for senior Australians.

ASIC's role

ASIC has a statutory mandate to promote the confident and informed participation of investors and consumers in the financial system.¹ It aims to foster a financially literate community in which Australian consumers can make informed decisions about financial products and services, understand their rights and responsibilities, and identify and avoid scams and swindles.²

In pursuit of this aim, ASIC engages in a strategic program incorporating consumer education, information, research, compliance and enforcement activities.

ASIC's jurisdiction

As the consumer protection regulator for financial services, ASIC is responsible for enforcing a range of legislative provisions for the benefit of consumers.

ASIC has a regulatory role with respect to financial services, regarding:

- information that must be disclosed to consumers about financial products;
- misleading or deceptive conduct and other unfair practices;

¹ Section 1(2)(b) *ASIC Act 2001*.

² For more information, see *Helping consumers and investors: An ASIC Better Regulation Initiative*, December 2006, available at <http://www.asic.gov.au>.

- licensing people or businesses who give advice on, or deal in, financial products;
- conduct of financial services providers; and
- approval of alternative dispute schemes and industry codes.

ASIC's submission to this Inquiry

ASIC strives to meet the respective needs of all consumers, including older Australians. As such, it is keen to participate in the current debate of increasing the engagement of older Australians with the internet in order for them to participate in the digital economy.

ASIC and consumers

It is ASIC's role to promote confident and informed participation by consumers and investors in the financial system.

We assist consumers by:

- providing education, through the National Financial Literacy Strategy
- providing trusted and independent information, tools and ongoing support (i.e MoneySmart website)
- working in partnership with the financial services industry and promoting best practice (i.e CAP, taskforces and the ePayments Code of Conduct)

National Financial Literacy Strategy

The Strategy is central to our work educating and bringing about change in consumer behaviour.

Financial literacy

Financial literacy encompasses both knowing about money matters and being equipped to utilise that knowledge by applying it across a range of contexts. What a person needs to know to be financially literate will vary depending upon their circumstances and needs. Generally, however, it will involve an understanding of:

- a person's own values and priorities;
- budgeting, savings and how to manage money;
- credit;
- the importance of insurance and protecting against risk;
- investment basics;
- superannuation;
- retirement planning;
- the benefits of shopping around and how to compare products;
- where to go for advice and additional information, guidance and support;
- how to recognise a potential conflict of interest; and
- how to recognise and avoid scams.

ANZ financial literacy survey

In cooperation with ASIC, the survey of adult financial literacy by the Australia and New Zealand Banking Group Limited (ANZ)³ has been the first and largest national survey used to find out the financial literacy levels of all Australians.

³ ANZ (2011), ANZ (2008), ANZ (2005), ANZ (2003).

While the percentage of older Australian's accessing the internet is continually rising, recent research has identified that older Australians are currently still less likely than other Australians to rely on the internet as an information source.

Both the 2002 and 2005 ANZ financial literacy surveys indicate Australians aged 70 years and over were identified among those most likely to have the lowest levels of financial literacy.

In the latest 2011 ANZ report on Adult Financial Literacy in Australia, results indicate that amongst people aged 60 years or over, 43% said they didn't use the internet at all, down from 52% in 2008. Decreases were evident amongst those aged 60-69 years (down from 39% to 29%) and those aged 70 years or over (down from 67% to 59%). Nevertheless, within the 60 years or over age group, in 2011 non-users of the internet were still most likely to be found amongst:

- females (47% versus 38% of males), particularly females aged 70 years or more (66%);
- those who did not complete any post-secondary education (64%); and
- those with household incomes of \$65,000 or less per year (49%).

In addition to lower financial literacy levels, anecdotal evidence suggests that some older Australians may be more vulnerable to exploitation when their financial literacy skills are considered in conjunction with other factors. Examples may include older Indigenous Australians, or older Australians for whom English is not a first language.

ASIC responds to such concerns by ensuring that a number of its key consumer publications are translated into community languages. ASIC also undertakes an Indigenous outreach strategy that incorporates distribution of a number of key education materials designed specifically for Indigenous consumers.

MoneySmart - ASIC's consumer website

The MoneySmart website provides information and tools to help people make smart choices about their personal finances. The website is for all Australians - young or old. Specifically, MoneySmart has a section dedicated to people over 55 that provides information on scams and bad value investments. This information can be found at <https://www.moneysmart.gov.au/tools-and-resources/information-for/over-55s/your-money>.

In terms of accessibility, ASIC aims to provide a website that is accessible to all users:

- complying with World Wide Web Consortium (W3C) standards,
- following mandatory requirements set out by the Australian Government Information Management Office (AGIMO),
- using XHTML to ensure the page can be viewed correctly in all browsers,
- ensuring its content is readable on screen and by other devices

The information that is available on the MoneySmart website can also be accessed for free by calling ASIC's infoline number (1300 300 630). The info line staff can assist people by talking through any general issues and are able to post out (free of charge) MoneySmart information.

ASIC's Consumer Advisory Panel

The Consumer Advisory Panel (CAP) was established in 1999. Its role is to advise

ASIC on current consumer protection issues and give feedback on ASIC policies and activities. In addition, CAP advises ASIC on key consumer research and education projects.

As part of CAP, ASIC also provides information to CAP members to inform relevant stakeholders of any issues that are emerging. Senior Australian groups are represented on the panel with members from Australian Council on the Aging, National Information Centre on Retirement Investments and National Seniors Australia.

The Australasian Consumer Fraud Taskforce (ACFT)

ASIC is one of a number of Australasian government agencies that have combined forces to form the Australasian Consumer Fraud Taskforce (ACFT).

Formed in 2005, the ACFT is a group of 18 government regulatory agencies and departments with responsibility for consumer protection in relation to frauds and scams.⁴ The ACFT was formed in response to the vast array of scams and frauds that Australian consumers fall prey to each year and are estimated to cost the Australian community billions of dollars each year.⁵

The taskforce's primary functions are to:

- enhance Australian and New Zealand government enforcement activity against fraud and scams
- share information and research on consumer fraud and scams
- develop coordinated consumer education initiatives to raise community awareness about scams

The taskforce is part of the Mass-Market Global Fraud project of the International Consumer Protection Enforcement Network (ICPEN).

Every year the ACFT runs a National Consumer Fraud week which is a campaign to raise community awareness about scams. In 2010, the campaign titled "Online offensive" focused on the traps consumers and small businesses can encounter when transacting online and tips for dealing with the issue. The campaign had a particular focus on young consumers, older consumers and small businesses.

Leading up to and during National Consumer Fraud week, ASIC actively distributes a number of scam related publications (published by ACCC) to different associations, communities and stakeholders groups, which include older Australian groups.

Taskforce Galilee

The Australian Crime Commission Board—which includes Commissioners from every state/territory police jurisdiction and the heads of key Commonwealth agencies (including ASIC)—has established a multiagency task force.

Led by the Australian Crime Commission, Task Force Galilee seeks to:

- disrupt serious and organised investment fraud operations and the organised criminal groups behind them
- educate the Australian community about this type of investment fraud and the threat it represents.

⁴ The ACFT also has a range of community, non-government and private sector organisations as partners.

⁵ On identity theft alone, losses to the Australian community are estimated to be in excess of \$1 billion annually: ASIC Media Release MR 07-50 *Scams target you! Protect yourself*, 4 March 2007.

Industry stakeholders play an integral part in raising awareness and communicating the threat of these serious and organised investment scams to the Australian community. The task force has been engaging with a range of industry sectors, including the banking, superannuation, financial advisory, Internet service providers and community organisations, to develop strategies to prevent and disrupt serious and organised fraud.

Serious and organised investment scams

Serious and organised fraudulent investment scams are usually initiated by telephone cold-calling of potential victims. The people targeted, typically the elderly, are subjected to persuasive techniques to identify their financial status and then encouraged to transfer money into sham or worthless investment scams.

The telephone contact is often backed up with sophisticated looking, but fake websites and publications to trick consumers into thinking the investment offer is legitimate and financially rewarding.

Serious and organised fraudulent investment scams place high pressure on consumers to take up the investment offer. Typically based off-shore, these scams use the Internet to conduct their illegal operations. They are incredibly sophisticated and very difficult for even experienced investors to identify.

Based on initial indications, more than 2400 Australians have lost in excess of \$93 million to these scams, but it is believed there is a high level of underreporting and the extent is far greater.

Organised criminal groups are attracted to the high levels of superannuation and retirement savings in Australia. The Australian economy is known to have been less affected by the global financial crisis than other nations, making those approaching retirement, an attractive target.

In the next 20 years, as a large number of Australians are expected to retire from active work and will have superannuation investments to manage. Raising awareness of fraudulent serious and organised investment scams is important in preventing people falling victim.

ASIC has released information on how to protect yourself and prevent fraudulent investment scams which is available on the MoneySmart website, otherwise the Australian Crime Commission Board issues a fact sheet with the same information for those that don't have easy access to the internet.

ePayments Code

The ePayments Code regulates electronic payments, including ATM, EFTPOS and credit card transactions, online payments, internet and mobile banking, and BPAY.

It was formerly known as the Electronic Funds Transfer Code of Conduct which has existed since 1986.

ASIC continues to be responsible for the administration of the ePayments Code, including monitoring compliance and reviewing it regularly.

The ePayments Code continues to play an important role in the regulation of electronic payment facilities in Australia. It complements other regulatory requirements, including financial services and consumer credit licensing, advice, training and disclosure obligations under the Corporations Act 2001 and the National Consumer Credit Protection Act 2009.

In summary, the ePayments Code:

- requires subscribers to give consumers terms and conditions,
- information about changes to terms and conditions (such as fee increases), receipts and statements,
- establishes a consumer protection liability allocation regime for unauthorised payments - including on-line payments,
- establishes a regime for recovering mistaken internet payments.

Online fraud and Older Australians

The nature and incidence of online consumer fraud in Australia is currently not well quantified. In part, the limited data available in Australia results from the reporting methodology used, and Australia's reliance on self-reporting.⁶ There is an apparent reluctance by consumers to report fraud,⁷ probably due to a range of factors including embarrassment, a perception of stupidity or contributory responsibility, or a belief that nothing can be done. As a result, we have relatively limited information about the impact of online fraud on Australians generally, or on older Australians specifically.

We do know, however, that Australians continue to be preyed upon by a wide variety of frauds and scams, originating both in Australian and overseas. We also know that Australians continue to fall victim to these scams, and that the financial costs are extremely high. As mentioned earlier, information published by the Australasian Consumer Fraud Taskforce (ACFT) suggests that identity fraud alone costs the Australian community in excess of \$1 billion annually.⁸

Cyber-safety

Technical solutions can provide effective protection against security threats, but alone cannot provide a comprehensive solution. Cyber criminal activities such as phishing will continue to evolve into new forms, while continuing to exploit human engineering (people are likely to remain one of the weakest links in attempts to secure systems and networks). Therefore, user awareness and education/training are critical in mitigating many types of cyber threats.

Please do not hesitate to contact me if you require further information.

Jackeline Cardona
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⁶ Smith R G, (2007) *Consumer scams in Australia: an overview*, Australian Institute of Criminology trends & issues in crime and criminal justice, 331.

⁷ *ibid.*, at 6.

⁸ See ASIC Media Release MR 07-50 *Scams target you! Protect yourself*, 4 March 2007, available at <http://www.asic.gov.au>.