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DELIA RICKARD
ACT Regional Commissioner &
Deputy Executive Director
Consumer Protection & International

13 June 2007

The Secretary
House of Representatives Standing Committee
on Legal and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

6th Floor, 15 London Circuit, Canberra
GPO Box 9827 Canberra ACT 2601
DX 5696 Canberra

Telephone: (02) 6250 3801
Facsimile: (02) 6250 3811

Dear Secretary

Inquiry into older people and the law

I refer to your letter dated 20 September 2006 addressed to ASIC Chairman, Mr Jeffrey Lucy, and apologise for the delay in responding to you.

Thank you for the invitation to prepare a submission for consideration by the House of Representatives Standing Committee on Legal and Constitutional Affairs (the Committee) in its inquiry into older people and the law. The Australian Securities and Investments Commission (ASIC) recognises the importance of this inquiry, and welcomes the opportunity to contribute to the information available for consideration.

The attached submission covers the specific areas of the inquiry which closely relate to ASIC's jurisdiction, namely fraud and financial abuse. In particular, the submission addresses the following issues of concern to ASIC:

- Adequate financial planning for retirement and avoiding high risk or illegal investment strategies which may result in significant, irrecoverable financial losses;
- Equity Release Products; and
- Avoiding scams, such as cold calling and unsolicited share offers.

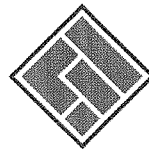
In addition, ASIC has sought to provide the Committee with an overview of some of its experiences and activities in the areas of consumer education, compliance and enforcement, with particular reference to older people. This information may serve to further inform the Committee in conducting this inquiry.

ASIC looks forward to participating further in the examination of these issues, and to receipt of the Committee's report.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a long, horizontal, slightly wavy line that tapers to the right.

Delia Rickard
Deputy Executive Director, Consumer Protection



ASIC

Australian Securities & Investments Commission

**House of Representatives
Standing Committee on Legal
and Constitutional Affairs**

**Inquiry into older
people and the law**

**Submission by the Australian
Securities and Investments
Commission**

June 2007

Preface

The Federal Attorney General, the Honourable Philip Ruddock MP, has asked the House of Representatives Standing Committee on Legal and Constitutional Affairs (the Committee) to conduct an inquiry into older people and the law.

Specifically, the Committee will investigate and report on the adequacy of current legislative regimes addressing the legal needs of older Australians in the following areas:

- fraud;
- financial abuse;
- general and enduring ‘power of attorney’ provisions;
- family agreements;
- barriers to older Australians accessing legal services; and
- discrimination.

The Committee has advised that the accepted definition of ‘older’ for the purposes of this inquiry is that of the Australian Institute of Health and Welfare, which defines ‘older’ as 65 years and over.

The Committee has advised that it will consider the relevant experience of overseas jurisdictions in conducting this inquiry.

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Section 1: ASIC's role

1.1 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

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

ASIC's jurisdiction

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

1.4 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;
- 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

1.5 ASIC strives to meet the respective needs of all consumers, including older Australians. As such, it is eager to participate in the current debate regarding the legal needs of older Australians.

1.6 The following submission covers those specific areas of the inquiry which relate to ASIC's jurisdiction, namely financial abuse and fraud. It will particularly focus on aspects of the interaction between older Australians and the financial services sector that cause ASIC greatest concern. ASIC has identified a number of issues for consideration, three of which merit particular attention:

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>.

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- Adequate financial planning for retirement and avoiding high risk or illegal investment strategies which may result in significant, irrecoverable financial losses;
- Equity Release Products; and
- Scams, such as cold calling and unsolicited share offers, to which a significant number of older Australians fall victim.

1.7 Recent high profile investment failures, such as Westpoint and Fincorp, have illustrated the importance of educating retail investors about portfolio diversification, and the relationship between risk and return. One of ASIC's identified priorities over the next 12 months and beyond will be consumer education around these fundamental investment concepts. ASIC will be particularly focussing its efforts on older Australians, or those soon to become older Australians, including the 'baby boomer' generation and small superannuation fund trustees.

Section 2: The significance of this inquiry

2.1 As indicated by Committee Chairman, the Honourable Peter Slipper MP, the proportion of Australians aged 65 and older is steadily increasing, and is estimated to exceed 22% of our population by 2030.³ In other words, more than one in every five Australians will be aged 65 or over.

2.2 Irrespective of their proportional representation within our society, it is essential to ensure that the legal needs of older Australians are adequately addressed. It is necessary for government, policy-makers, consumer groups, and society as a whole, to focus attention on ensuring there are adequate systems in place to meet the needs of this growing sector of our population.

Our aging population

2.3 Australia, like most developed countries, has an aging population.

2.4 This is a result of a combination of factors including declining fertility rates, increased life expectancy and migration trends. In Australia, continuing increases in life expectancy have been a major contributing factor in the aging of our population. We currently boast some of the highest life expectancy figures in the world.⁴

2.5 Projections suggest that the proportion of Australia's population over 65 will continue to grow rapidly over the next 50 years,⁵ and that there will be a dramatic increase in the number of older Australians requiring care and access to services.⁶ These projections therefore carry significant implications for governments, policy makers and consumer groups, in their efforts to ensure the well being of older Australians.

2.6 For a more detailed statistical examination of Australia's aging population and increased life expectancy figures, please refer to the Appendix.

³ House of Representatives Standing Committee on Legal and Constitutional Affairs Media Release *Inquiry into Older People and the Law*, 20 September 2006, available at <http://www.aph.gov.au/house/committee/laca/olderpeople/media/media01.pdf>.

⁴ Information sourced from the Australian Bureau of Statistics at <http://www.abs.gov.au>.

⁵ Australian Bureau of Statistics Media Release 125/2005 *Australia in 2051: almost half the population older than 50 years*, 29 November 2005.

⁶ Australian Bureau of Statistics, *3201.0 – Population by Age and Sex, Australian States and Territories*, June 2006 (latest issue released 13 December 2006). This report was based on the 2001 Census of Population and Housing and contained revised estimates of the resident population of Australian states and territories as at 30 June 2005 and preliminary estimates as at 30 June 2006.

Identifying and addressing the needs of older Australians

2.7 As our population ages, it is to be expected that increased demands will be placed on various industries and services relating to, for example, health care, aged-care, and financial or legal advice.

2.8 Yet it also stands to reason that the growing number of Australians aged 65 years and over will not have identical needs. With steadily increasing life expectancy figures, health and lifestyle will vary significantly for Australians 65 years and over who may expect to live for almost another 2 decades, and may in reality live far longer.

2.9 ASIC would therefore recommend differentiating the needs of Australians aged 65 years and over by focussing on specific subsets within this group (for example, retirees and seniors).

2.10 While the term ‘retirees’ may be a technically accurate descriptor, the soon-to-be retired and recently retired may generally be considered to spend a period of perhaps 10–15 years during which they remain relatively active, fit and independent (financially and otherwise). During this period, their focus and demands may relate more to access to financial and legal advice services, rather than health or aged care.

2.11 As an alternative subset within the group of older Australians, ‘seniors’ may be aged 80 years and over. While many seniors will remain fit, healthy and independent members of society, this group are more likely to require access to health and aged care services, may have more difficulty ‘getting by’ financially, and may be more likely to depend on others.

2.12 This submission will continue to employ the accepted definition of ‘older’ as 65 years and over.

Section 3: The impact of financial abuse and fraud on older Australians

Financial abuse and older Australians

3.1 Elder abuse has been defined as 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’.⁷ Someone close to the victim, such as a carer, friend or family member, may often perpetrate elder abuse. This complicates the issue, as the offence may be harder to detect, and the victim less likely to complain or seek redress.

3.2 Financial or economic abuse is one of several recognised forms of elder abuse,⁸ and there is a broad set of circumstances in which the necessary trust relationship may exist, or may be engineered. In addition to close personal contacts, such as a carer, friend or family member, older people may also be vulnerable to financial abuse at the hands of trusted professionals, for example, somebody whom they rely on for financial or legal advice.

3.3 Someone who is a complete stranger to the victim may also perpetrate some types of financial abuse, such as fraud. In this situation the perpetrator may manufacture the necessary relationship of trust, or exploit an existing vulnerability such as cognitive impairment.

3.4 Older people are considered particularly vulnerable to economic or financial abuse. Perceptions of vulnerability or frailty, regardless of their accuracy, may also make older people a more frequent target of such behaviour. As it is frequently the case that older people survive on limited incomes, the loss of even a small amount of money will have a significant impact. Losses suffered may be difficult, or impossible, to recoup where there is no longer an ability to undertake, or to access, paid employment.

3.5 Financial abuse of older Australians can range from maltreatment, such as improper use of funds or resources, to illegal behaviour constituting exploitation, fraud or outright theft. It may take a wide variety of forms including, but not limited to:

- fraud, including door to door scams, telemarketing, investment fraud or fake lottery scams;

⁷ This definition has been adopted by the International Network for the Prevention of Elder Abuse, see World Health Organization, (2002) *World Report on Violence and Health: Chapter 5 ‘Abuse of the Elderly’*, available at:
http://www.who.int/violence_injury_prevention/violence/world_report/en/full_en.pdf.

⁸ World Health Organization, *Prevention of elder abuse*, http://www.who.int/ageing/projects/elder_abuse/en/.

- misuse of bank accounts, ATMs, credit cards and the like;
- use of threats, force or undue influence to take control of financial affairs or assets, including property;
- taking advantage of inequality of bargaining power (unconscionable conduct).

3.6 To date, relatively limited research has been conducted within Australia, or indeed globally, in relation to the prevalence of elder abuse, or financial abuse of older people more specifically. Surveys conducted in several developing countries have indicated a rate of abuse of older persons (including physical, psychological and financial abuse) between 4-6%.⁹ A Canadian survey of family violence published in 2000 found that 1% of older people in that country had experienced financial abuse at the hands of their children, caregivers or partners during the preceding five years.¹⁰

3.7 In Australia, although information about the extent of elder abuse is limited, it has been suggested that 4.6% of older persons are abused or exploited in some way.¹¹

3.8 It is also acknowledged that incidents of abuse, including financial abuse, are likely to be significantly underreported. Reluctance to report the offence is presumed to be a corollary of the trust relationships in which elder abuse is understood to most frequently occur.

Fraud and older Australians

3.9 The nature and incidence of consumer fraud in Australia is currently not well quantified. In part, the limited data available in Australia results from our reporting methodology, and our reliance on self-reporting.¹² There is an apparent reluctance by consumers to report fraud,¹³ 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 fraud on Australians generally, or on older Australians specifically.

3.10 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. For example, information published by

⁹ World Health Organization, (2002) at 129.

¹⁰ *ibid.*

¹¹ Pinsker D M, Stone V, Pachana N & Greenspan S, (2006) *Social Vulnerability Scale for older adults: Validation study*, *Clinical Psychologist*, 10(3), 109–119 at 110.

¹² Smith R G, (2007) *Consumer scams in Australia: an overview*, Australian Institute of Criminology trends & issues in crime and criminal justice, 331.

¹³ *ibid.*, at 6.

the Australasian Consumer Fraud Taskforce (ACFT) suggests that identity fraud alone costs the Australian community in excess of \$1 billion annually.¹⁴

3.11 Data collected for the Australian Crime Victims Survey in 2000 has shown that older Australians are less than half as likely as younger people to be victims of most types of consumer fraud.¹⁵ This figure is consistent with surveys conducted in the United States, which found older people less than three times as likely to be victims of fraud as younger people.¹⁶ Nevertheless, exceptions were found in the Australian survey for investment and insurance fraud, where older Australians experienced a higher incidence of victimisation than younger Australians. No significant differences in age of the victim were identified for fraud relating to financial transactions.

3.12 The lower overall incidence of consumer fraud for older Australians is also offset by the fact that it is the most common type of personal crime perpetrated against older people. For older Australians, consumer fraud has been found to occur 2.2 times more frequently than assault, 2.4 times more frequently than theft and 13 times more frequently than robbery.¹⁷ The impact of fraud is therefore of greater significance for older Australians, despite its lower overall frequency.

3.13 For older Australians, the risk of being defrauded has also been found to increase with increased social, commercial and financial activity. It has been suggested that is because these activities necessarily represent increased exposure to potentially fraudulent transactions.¹⁸

Scamwatch 2006

3.14 A survey conducted as part of the ACFT Scamwatch campaign during 2006 assessed consumers' experiences of scams during the preceding 12 months.¹⁹ The results of the survey have been reported by the Australian Institute of Criminology (AIC), noting that the sample size was relatively small, self selected and focussed on the campaign activities, and was therefore not necessarily representative of consumer fraud throughout Australia.²⁰

3.15 Of interest, 15% of callers surveyed were over 65 years of age. This figure was higher than expected based on information collected by the AIC Crime Victims Survey in 2000. The majority of callers (69%) had not reported

¹⁴ See ASIC Media Release MR 07-50 *Scams target you! Protect yourself*, 4 March 2007, available at <http://www.asic.gov.au>.

¹⁵ Muscat G, James M & Graycar A (2002) *Older People and Consumer Fraud*, Australian Institute of Criminology trends & issues in crime and criminal justice, 220.

¹⁶ *ibid.*, at 2-3.

¹⁷ *ibid.*, at 3.

¹⁸ *ibid.*, Smith (2007).

¹⁹ 103 of 121 callers agreed to participate.

²⁰ Smith (2007) at 4-6.

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their experiences to any authority or regulatory body. Of those who *had* lost money as a result of consumer fraud during the preceding 12 months, the non-report rate was higher, at 87%, than for those who *had not* lost money (66%).

Section 4: Age-related issues

4.1 Older people may be subject to stereotypes that they are frail, dependent, isolated, or subject to inevitable cognitive deterioration with increasing age. These factors may in turn be perceived to lead to increased risk of exploitation or abuse. In fact, it is vulnerabilities arising from physical, cognitive, social and financial circumstances that may predispose older Australians to exploitation, rather than age of itself.²¹

4.2 It is apparent, though, that the risk of exploitation for older people may be exacerbated by many factors including:

- language or literacy barriers;
- financial literacy barriers. This may include situations where somebody with limited experience or historical involvement in managing their own financial affairs must suddenly take control (for example, as a result of injury, illness or death of their partner);
- insufficient financial preparation for retirement, or inadequate funds to live comfortably in retirement;
- reluctance to pursue their rights, or lodge complaints where appropriate
- ironically, being a socially active community member;²²
- being easily influenced by a group, such as a cultural, sporting or religious group—affinity fraud;²³
- being an older Indigenous Australian;
- reduced mobility, vision or hearing;
- cognitive impairment (deficits in memory, executive functioning or social intelligence).

4.3 This submission will examine several of these factors in further detail.

Financial literacy

4.4 The widely accepted definition of financial literacy developed by the National Foundation for Educational Research in the UK is: *The ability to make informed judgements and to take effective decisions regarding the use and management of money.*

4.5 In 2005, ACNielsen conducted a nationwide quantitative survey of financial literacy for the ANZ bank. The survey, covering 3,500 adult

²¹ Pinsker et al., (2006).

²² Muscat et al., (2002).

²³ Affinity fraud refers to investment scams that prey on certain community groups, including the elderly, religious groups, sporting or ethnic groups. Often affinity fraudsters operate by enlisting the aid, or gaining the trust, of leaders within the group.

Australians (the ANZ financial literacy survey), repeated an inaugural survey conducted in 2002.²⁴

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

Planning and saving for retirement

4.7 Demographic studies have introduced the concept of an older Australian who is fitter and healthier than in previous decades, and who is committed to enjoying their retirement years as the new 'teenage' stage of life. This new life phase has been termed the 'lifestyle period', and its participants the 'active retired' or 'Peter Pan generation' by one commentator.²⁵

4.8 How older Australians will fund their desired lifestyle after retirement is a question of particular importance. One corollary of increased life expectancy is that Australians will be required to rely increasingly on their retirement savings and superannuation, for many more years than they have previously.

4.9 In many cases, the impact of financial losses for older Australians will be more significant than for younger Australians. It will necessarily be harder for someone who will soon cease, or has already ceased, paid employment to recoup financial losses. The emotional impact of financial losses may also have more significance for older Australians, especially where the potential for loss of the family home is involved.

Adequate funding for a longer retirement

4.10 In comparison with earlier generations, Australians who are currently approaching old age are relatively wealthy, having accumulated significant assets throughout their working lives. This is partially a result of active encouragement from the Federal Government to build up savings for a self-funded retirement, rather than relying on a government pension. Since 1992, most Australian employees have also been in receipt of compulsory superannuation guarantee contributions.

4.11 Following recent legislative changes as part of the Better Super initiative, from 1 July 2007, Australians aged 60 years and over will have the opportunity to withdraw their superannuation savings at retirement as a tax-free lump sum.²⁶

²⁴ To view the full report, please visit:
<http://www.anz.com/aus/aboutanz/Community/Programs/FinSurvey2005.asp>.

²⁵ Salt B, *The Big Picture: Life, work and relationships in the 21st century*, Hardie Grant Books, Prahran, 2006.

²⁶ For more information about the changes to the superannuation system that will take effect from 1 July 2007, please visit <http://www.ato.gov.au/bettersuper>.

Those accessing their funds in this way will need to be especially cautious about decisions relating to their retirement funding, to ensure it lasts as long as they do.

Planning for retirement

4.12 In July 2004, Chant Link & Associates conducted research for ASIC to analyse consumer decision making processes at retirement.²⁷ A copy of the final research report is attached to this submission.

4.13 This research found that funds accumulated through superannuation represent the single most important source of income for many people at retirement. However, the vast majority of those surveyed spent very little time considering their superannuation in their pre-retirement years. Usually a trigger such as change of job, illness, divorce, or imminent retirement was required, although there is now some evidence to suggest this trend of avoidance is slowly changing.²⁸

4.14 For most, retirement was a gradual process and there was no need to access superannuation immediately, or to make decisions as to how retirement income would be drawn. Even where a set retirement date was known well in advance, very little forward planning was evident. Some respondents were also cautious about investing all their assets in superannuation due to perceptions of recent poor returns, issues associated with fees and charges, and a lack of understanding regarding the taxation benefits associated with superannuation.

Soon-to-be-retired 'baby boomers'

4.15 During the next 20 or so years, those Australians born from 1946 to 1961,²⁹ commonly referred to as the 'baby boomers', will become older Australians.

4.16 A recent report examining the financial situation of the baby boomers has found that the majority will retire far wealthier than their parents.³⁰ Boomers enjoy high levels of home ownership (four out of every five own their home) and are largely in control of their debts.

4.17 To balance this good news however, figures published in 2005 indicate that only 17% of retirees have private incomes that match or exceed the

²⁷ Chant Link & Associates, (2004) *A Report for ASIC on Consumer Decision Making at Retirement*, available at <http://www.asic.gov.au>. This research surveyed 10 focus groups of people who had retired from full time employment during the preceding 12 months. The final report also drew on the outcomes of an earlier survey of 400 pre-retirees and 200 retirees conducted by the Investment and Financial Services Association (IFSA) in 2001.

²⁸ See for example, ANOP Research Services, (2006) *Consumer Attitudes and Plans in Light of Recent Government Policy Changes to Superannuation*, available at <http://www.superannuation.ans.au/Reports/default.aspx>.

²⁹ Accepted birth dates for the 'baby boomer' generation vary. These dates were taken from Salt B, (2006) at 68.

³⁰ AMP:NATSEM Income and Wealth Report, (2007) *Baby boomers – doing it for themselves*, 16, available at <http://www.amp.com.au/ampnatsemreports>.

pension.³¹ We can, however, hope for some improvement in this figure as the period of time following introduction of compulsory superannuation guarantee contributions increases.

4.18 The boomer generation are also reported to have alarmingly low super balances, given their expectations of retirement lifestyle.³² It appears that a significant proportion of boomers retire early, before age 60, while they are still managing outstanding debts, in particular their home mortgage. Where superannuation is drawn as a lump sum at retirement it appears to be commonly eaten away paying off debts, such as the home mortgage, and leaving retirees with an annual income well below their expectations.³³

Women and super

4.19 Irrespective of the overall adequacy of superannuation balances for older Australians, research has consistently identified that women have far less in superannuation savings than their male counterparts.³⁴ This is despite evidence that shows women can generally expect to live longer than men and so have a need for greater superannuation savings.

4.20 Typically, women in the boomer generation will not have received superannuation guarantee contributions during the early years of their working life, and will also have missed out on contributions while taking time out of the workforce to fulfil carer responsibilities.

4.21 Added to this is the fact that, on average, working women still earn less than men. Average weekly earnings figures released by the Australian Bureau of Statistics in February 2007 showed that the average full time working woman currently earns 83.6 cents in the male dollar. This contrasts with a figure of 85 cents in February 2005, demonstrating that the gap between the sexes has actually increased by 1.4% during that period.³⁵

4.22 The impact of these factors on Australian women's superannuation savings is illustrated by the findings of a 2006 Newspoll survey, which found that women are half as likely as men (6% vs 12%) to expect superannuation

³¹ Productivity Commission, (2005) *Policy Implications of an aging Australia: an illustrated guide*, Financial Review Ageing Population Summit, Sydney. This presentation delivered to the Summit by Gary Banks referenced figures sourced by NATSEM.

³² AMP:NATSEM Income and Wealth Report, (2004) *The lump sum: here today gone tomorrow - income, superannuation and debt pre and post retirement*, 7, available at <http://www.amp.com.au/ampnatsemreports>.

³³ *ibid.*, at 10.

³⁴ For a summary of relevant research see, for example, a report commissioned by the Australian Government Office for Women: Warren D, (2006) *Aspects of Retirement for Older Women*, Melbourne Institute of Applied Economic and Social Research, available at: http://ofw.facs.gov.au/downloads/pdfs/Aspect_of_Retirement%20report_final.pdf.

³⁵ See Australian Human Rights and Equal Opportunity Commission Media Release, *Pay inequality limits choices for men and women*, 28 February 2007 available at: http://www.hreoc.gov.au/media_releases/2007/10_07.html.

savings to fund all or most of their retirement income. The survey also found that 60% more women (15% vs 9%) expect to rely on the aged pension as their main source of retirement income.³⁶

4.23 Recent research released by Max Super revealed that in dollar terms the average woman was likely to receive \$124 a week in retirement from her superannuation savings compared to the average male, who would receive \$461 a week.³⁷

Capacity or confidence to complain

4.24 The ANZ financial literacy surveys conducted in both 2002, and in 2005, showed that around 40% of consumers are not very confident, or not at all confident about their ability to make a complaint against a bank or financial institution.

4.25 It has been suggested that older Australians may be more reluctant to pursue their rights or to take legal action in response to serious issues such as financial abuse or fraud. This may particularly be the case where close friends or family members perpetrate an offence of this type.

4.26 ASIC publishes a simple guide about how to make a complaint about a financial product or service. The guide is available in English, Arabic, Chinese and Vietnamese.

4.27 The guide provides a simple three-step process for consumers who are unhappy with a financial product or service, and encourages them to pursue their rights. The guide includes sample letters of complaint, as well as detailed information about the external dispute resolution process.

Additional or layered vulnerability

4.28 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.

4.29 Australians who have not learned English as a first language may be highly dependant on the assistance of others, such family members, friends, or professional advisers in managing their financial affairs. Naturally this

³⁶ See Superpartners Media Release, *Super administrator calls for the abolition of the 15% super contribution tax for women*, 3 May 2006 available at: http://www.superpartners.com.au/freestylar/files/Superpartners_Newspoll_Media_Release_2006.pdf.

³⁷ Taylor M, *Women urged to build super balances*, Money Management, 26 April 2007 available at: http://www.moneymanagement.com.au/Articles/Women-urged-to-build-super-balances_0c04bd53.html.

dependence increases the scope for exploitation or exposure to fraudulent behaviour.

4.30 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.

Cognitive impairment

4.31 Research has identified that even where an older person has financial competence, for example the ability to balance a cheque book, they may still be at risk of exploitation in the absence of social judgement skills.³⁸ For example, an older person suffering from dementia may be unaware that they have been exploited or defrauded, and may therefore be exposed to repeated acts of exploitation as a result of their inability to recall their attacker or the exploitative situation.

4.32 The incidence of dementia increases with age, and studies suggest that about 6% of adults over 65 years old will develop some form of dementia. Meanwhile, cognitive impairment has been identified as a major risk factor in elder exploitation.³⁹

³⁸ Pinsker et al., (2006) at 110. This research identifies 'social vulnerability' as a significant precipitant of exploitation for older people. Social vulnerability is defined by the authors as '*an impaired ability to detect or avoid potentially harmful interpersonal interactions*'.

³⁹ Pinsker et al., (2006).

Section 5: Areas of concern to ASIC

Taking risks with retirement savings

5.1 A desire to improve retirement living standards may result in a growing willingness of older Australians to experiment with their retirement savings by investing in risky schemes, or complex financial products. In addition, older Australians drawing down their superannuation savings as tax-free lump sums may represent a tempting target for perpetrators of fraud and scams.

5.2 ASIC is aware of scams, illegal schemes and high-risk investment ventures that have been aggressively marketed to target older Australians over recent years. Such options represent a risk of significant losses, which may be difficult, if not impossible, to recoup.

The Westpoint collapse

5.3 The collapse of the property development group, Westpoint, involved more than 100 related private companies involved in large-scale property development across Australia.

5.4 The group raised some funds directly from retail investors in the form of mezzanine debt raised via promissory notes. These notes offered high returns of up to 12% per annum, paid monthly. The notes were largely sold through financial advisers licensed by ASIC (allegedly on high commissions) and also through some unlicensed advisers such as mortgage or finance brokers. A small number of people also invested directly in response to newspaper advertisements or seminars.

5.5 The Group's collapse has left about 3,000 retail investors (who were the 'mezzanine' or 'unsecured' investors) owed more than \$350 million. Many of these investors were unaware of the underlying risk of the investments, and that their principal was effectively unsecured. ASIC is currently in the process of an extremely large and complex investigation into the affairs of the Westpoint Group and the role and conduct of not only the Group's directors, but also of the licensed and unlicensed advisers.

5.6 As part of its investigation into the Westpoint collapse, ASIC has written to all known investors, asking them to complete an on-line survey. More than 1,800 responses were received, which revealed that about one third of investors were self-funded retirees, the average age of investors was almost 60 and the average loss exceeded \$100,000.

5.7 ASIC has estimated that retail investment (by households and small superannuation funds) in debt securities in Australia totals around \$523 billion.⁴⁰ Following appointment of administrators to the Fincorp group of companies earlier

⁴⁰ See Statement by Tony D'Aloisio, ASIC Chairman, to the Senate Standing Committee on Economics, *Statement on Fincorp*, 30 May 2007, available at <http://www.asic.gov.au>.

this year, it is apparent that many retail investors, including older Australians, have again lost significant savings through relatively high risk, unsecured, property based investments. Administrators were also appointed to property development financier Australian Capital Reserve Limited (ACR) on 28 May 2007.

5.8 ASIC's recently appointed Chairman, Mr Tony D'Aloisio, made statements in relation to Westpoint, Fincorp, and a preliminary statement in relation to ACR, before the Senate Standing Committee on Economics on 30 May 2007.⁴¹

Self managed superannuation funds (SMSFs)

5.9 A growing number of Australians are exercising their option to move their superannuation savings into a self-managed fund (SMSF). A November 2006 report on the SMSF market shows that SMSF are now the second largest superannuation category in Australia.⁴² As of March 2006, SMSFs held \$208 billion in super assets, representing an increase of 26% over the preceding 12-month period. Of those Australians investing through SMSFs, 49% are aged over 55 years, 27% are already retired, and those still working are an average of 10 years from retirement.

5.10 ASIC is concerned that not all older Australians fully understand the complexity and responsibilities associated with running their own SMSF. While benefits can exist for those who have the time and knowledge to devote to managing their own fund, members do not enjoy the same protections they would through APRA-regulated superannuation funds.

5.11 The statutory complaints scheme, the Superannuation Complaints Tribunal, is only available to members of APRA-regulated super funds. Further, if a SMSF suffers from fraudulent conduct or theft, members are not eligible for compensation under superannuation law.

5.12 ASIC is also aware that SMSFs are frequently exploited as a vehicle for illegal early access to retirement savings.

Understanding the fundamentals of investing

5.13 There is a growing level of direct retail investment in Australia, especially represented by households and small superannuation funds. Increasingly sophisticated products such as derivatives, warrants, contracts for difference, margin loans and hybrids are being targeted to these investors.

5.14 In recognition of the importance of these issues, one of ASIC's key priorities over the next 12 months and beyond will be to focus on the education of retail investors, in particular 'baby boomer' retirees and the following generation. In particular, ASIC will seek to assess and implement strategies which aim to improve quality of advice, and the level of investor education in relation to diversifying risk

⁴¹ A copy of each statement is available to download at <http://www.asic.gov.au>.

⁴² after retail superannuation funds. See IFSA Investment Trends (2006), *SMSF Trends Report*, available at <http://www.ifsa.com.au>.

through asset allocation, and understanding the relationship between risk and return for particular asset classes such as debt securities.⁴³

5.15 ASIC also intends to focus attention on simpler, better-targeted disclosure; advertising of complex investment products targeted to retail investors; and, early detection and elimination of illegal operators.

5.16 Over time, it is anticipated that these efforts will translate into a better informed, more knowledgeable investment sector, with better access to quality advice and an increased ability to manage investments and protect their wealth.

Equity release products

5.17 Equity release products are generally marketed to consumers aged 60 years and over. Commonly referred to as 'reverse mortgages' this class of products includes reverse mortgages, home reversion schemes and shared appreciation mortgages.

5.18 These products enable consumers to borrow against the value of their home, with no repayments required until the borrower moves into care, sells the home or dies.⁴⁴ Usually the borrower has the option to take the funds either as a one-off lump sum payment or as a regular income stream, although not all lenders offer these options.

A growing market

5.19 The market for reverse mortgage products is currently burgeoning. According to recent research commissioned by the Senior Australian Equity Release Association of Lenders (SEQUAL), 27,500 reverse mortgages had been taken out by consumers at 31 December 2006, representing an 80% increase during 2006.⁴⁵

5.20 The average age of new borrowers was 72. However, those under 65 years took out 20% of new loans during 2006, and those under 70 years represented the fastest growing segment for new loans. The report also found that borrowers under 65 favoured a lump sum payment, whereas those aged 70–80 years tended to take their loan as an income stream.⁴⁶

⁴³ For more information, please see Statement by Tony D'Aloisio, ASIC Chairman, to the Senate Standing Committee on Economics, *Opening Statement on ASIC's Priorities for the Next 12 Months*, 30 May 2007, available at <http://www.asic.gov.au>.

⁴⁴ To be distinguished from standard 'equity loans' or mortgages which allow a consumer to borrow against the equity in their property, subject to contract requiring repayment over an agreed period.

⁴⁵ This research was conducted for Sequal by Trowbridge Deloitte: Tysón-Chan D, *Reverse Mortgages sustain rapid growth*, Money Management, 17 April 2007 available at http://www.moneymanagement.com.au/Articles/iReversei-mortgagesi-sustain-rapid-growth_0c04b7b4.html.

⁴⁶ *ibid.*

Assessing the risks

5.21 In response to a marked increase in the number of providers and range of equity release products available, ASIC issued a report on these products in November 2005.⁴⁷ The report found that while equity release products could provide a useful and legitimate tool to meet the needs of some consumers, they also involved significant risks.

5.22 The risky nature of these products has also been identified from a lender’s perspective by the Australian Prudential Regulation Authority (APRA), which has described reverse mortgages as ‘...*a race between interest rates and housing price growth, with an uncertain finish line.*’⁴⁸ Some issues of particular concern to ASIC are outlined below.

<i>Negative equity</i>	<p>If the interest compounding on the loan results in an ultimate debt exceeding the value of the property, this is referred to as negative equity.</p> <p>Many lenders now incorporate a ‘no negative equity guarantee’ (NNEG) to protect the borrower from a liability which exceeds the value of their home. However, this is not always an unconditional guarantee. The significance of a breach of contract that can exclude protection under a NNEG varies between lenders.</p>
<i>Terms and conditions</i>	<p>Reverse mortgages are complex products, and the associated terms and conditions are similarly complicated. Contractual terms may include requirements to maintain the property to certain standards, or carry out repairs.</p> <p>A borrower taking out a loan in early retirement may not consider the difficulty of fulfilling such requirements as they become older. Equally, many years after the consumer has taken out the original loan they may find it financial difficult, or impossible, to finance repairs or meet other costs which are necessary to comply with the terms of their loan.</p> <p>Subject to the conditions of the loan, the consumer may lose the protection of their NNEG if they are in breach of the terms and conditions. Defaulting on the contract may also trigger a clause requiring immediate repayment, which may result in the borrower being forced to sell their home.</p>
<i>Access to advice</i>	<p>Independent legal advice should be an essential requirement before a consumer takes out a reverse mortgage. Ideally, a consumer should also consult a financial adviser, Centrelink and their family before they proceed.</p> <p>Although the majority of lenders require that a consumer obtain independent legal advice, not all do. To further complicate matters, some consumers may experience difficulty obtaining independent advice due to the reluctance of some legal practitioners to provide</p>

⁴⁷ *Equity release products—An ASIC report*, November 2005, available at <http://www.asic.gov.au/reports>.

⁴⁸ Australian Prudential Regulation Authority, (2007), *Reverse Mortgages—Increasingly popular among baby boom retirees*, Infinance, 18.

	advice in relation to these inherently complex financial products.
<i>Misselling</i>	Commission driven sales and inadequate product knowledge represent a significant risk of misselling in this area. This is especially relevant given the limited application of the current regulatory regime governing sales and advice in relation to credit.
<i>Centrelink benefits</i>	Reverse mortgages may have a disadvantageous impact on eligibility for Centrelink benefits as a result of income or asset testing.
<i>Fees</i>	A range of different fees usually applies, including set up fees, ongoing annual fees and 'exit' fees if the loan is repaid early. Consumers may also be required to pay for regular property valuations.
<i>Budgeting</i>	<p>ASIC is currently conducting a survey to assess the experiences of reverse mortgage borrowers. Although the results of the survey are yet to be publicly reported, preliminary indications suggest that borrowers have had difficulty implementing long-term budgeting strategies.</p> <p>An entire lump sum borrowed through a reverse mortgage may be spent within a few years. The borrower is then left with a compounding loan against the equity in their home, and is significantly restricted in terms of their future access to credit.</p>

Recent report and shadow shopping exercise by CHOICE

5.23 CHOICE recently assessed contracts for 23 reverse mortgages against six consumer protection standards.⁴⁹ These standards included: absence of unfairly broad default clauses; an unconditional no negative equity guarantee; making independent legal advice on the loan mandatory; and, providing access to an ASIC approved external dispute resolution scheme.

5.24 None of the loans assessed met all the requisite standards, however 10 met minimum contract standards. The requirement that default should only occur for major contract breaches, to protect consumers against sale of their home against their will, was not met by any of the contracts. In some cases, default clauses applied for conduct as simple as not paying the rates on time, or failing to submit a status report on the property at the end of the year. Only 10 companies provided an unconditional no negative equity guarantee.

5.25 Earlier this year, CHOICE also published results of a shadow shopping exercise conducted to assess mortgages brokers and reverse mortgage providers working in this area.⁵⁰ It found that, in the majority of cases, consumers were encouraged to borrow more than they needed. In addition, providers failed to give consumers all the necessary information to make an informed decision on the product.

⁴⁹ For more information and a summary of the outcomes of the assessment see: *Pawning your home?*, CHOICE, April 2007, 13.

⁵⁰ For more information see: *Trading your home for a holiday?*, CHOICE, March 2007, 12.

5.26 In some cases, consumers enquiring about reverse mortgages were offered very high risk 'asset loans' instead.

An overview of ASIC's activities

5.27 Reverse mortgages will have long-term effects on the financial situation of older Australians over a period of decades in some cases. Due to the escalating acceptance of these products it is essential to ensure they are subject to an adequate regulatory regime, and that consumers have access to impartial advice before they purchase the product.

5.28 Through its consumer education activities, ASIC consistently encourages consumers to consider whether an equity release product is suitable for their needs, and to seek independent legal and financial advice before proceeding.

5.29 In conjunction with its 2005 report, ASIC has also published extensive information for consumers on its website, outlining the types of products available together with the potential benefits and pitfalls. ASIC also provides a comprehensive checklist for consumers considering whether an equity release products is suitable for their financial situation.

5.30 By undertaking an ongoing advertising monitoring campaign ASIC has been able to track the development of the reverse mortgage market in Australia. This campaign also assists in the identification of misleading or deceptive advertising of reverse mortgages products.

5.31 ASIC has also undertaken enforcement action in response to misleading and deceptive advertising in this area. In 2005 ASIC commenced action against Money for Living (Aust) Pty Ltd regarding a home reversion scheme that ultimately went into administration. The scheme involved the sale of 117 homes under what was described as 'a unique system that allows people (generally over 55) to access the equity in their home'. The total value of the properties was approximately \$27,815,000.⁵¹

5.32 In 2006, Transcomm Credit Cooperative Ltd, a credit union, entered into an enforceable undertaking with ASIC regarding misleading and deceptive conduct in relation to a reverse mortgage product. The product had been marketed as having certain in-built protections for the borrower, despite the fact that it did not have a no negative equity guarantee.⁵²

⁵¹ For more information, see ASIC Media Releases: MR 06-097 *Money for Living brothers charged with fraud*, 31 March 2006; MR 06-350 *ASIC action assists Money For Living investors to pursue other proceedings*, 29 September 2006.

⁵² See ASIC Media Release MR 06-093 *ASIC stops misleading reverse mortgage advertising* 29 March 2006.

Unsolicited off-market share purchase offers

5.33 The issue of underpriced, unsolicited share purchase offers to consumers via mass mail-out has become a recognised practice in Australia over recent years. Unscrupulous operators using this technique effectively take advantage of consumer ignorance, disengagement or inertia to secure a windfall, by purchasing large numbers of shareholdings at prices well below market value.

5.34 While these types of offers are technically legal, they must not mislead or deceive shareholders. Following a marked increase in these types of offers the government introduced new regulations, which took effect from April 2003. These require that a person making such an offer must provide:

- a written statement of the market value of the shares on the date the offer is made; and
- a minimum period of one month in which to accept the offer.

5.35 ASIC is aware that older Australians are over-represented among those consumers who receive these offers. Operators tend to target shareholdings in large demutualised companies on the basis that shareholders are unlikely to have personally purchased their shares, and are therefore unlikely to be aware of their value or to have ‘engaged’ with the market. It is also apparent that inexperienced or elderly shareholders are more likely accept such offers without carefully reading the offer or fully investigating the implications.

An overview of ASIC’s activities

5.36 ASIC has engaged in a range of activities to regulate the way in which these offers are made, to ensure such offers comply with the relevant legislation and to educate consumers about the implications of accepting such offers.

5.37 In particular, ASIC has repeatedly taken court action against entities making offers that do not comply with the legislation. Most recently, in March 2007, ASIC sought orders against Ross Investments (Aust) Pty Ltd in the Federal Court of Australia.⁵³

5.38 Regular consumer alerts have been issued to warn shareholders about the implications of particular offers at the time they are made, where these offers have been brought to ASIC’s attention. In May this year ASIC issued such a warning to shareholders of Bendigo Bank Ltd about underpriced offers being made by Share Buyback Group Pty Ltd.⁵⁴

5.39 ASIC has also developed ‘seven safety checks’ for consumers who receive an unsolicited share purchase offer and are unsure how to proceed. In

⁵³ For more information, please refer to ASIC Media Release MR 07-47 *ASIC obtains further orders against Bendigo company in relation to unsolicited share offers*, 1 March 2007.

⁵⁴ See ASIC Consumer Alert CA 07-09 *Bendigo Bank shareholders beware*, 3 May 2007.

both 2005 and 2006 consumer warnings about unsolicited share offer were released to coincide with The International Day of Older Persons on 1 October.⁵⁵

5.40 Despite these efforts, however, such offers continue to be made and some consumers still accept them. ASIC continues to look for better ways to prevent such offers being made, and to educate consumers about them.

Understanding financial options at retirement

5.41 As discussed above, research shows that consumers have very little engagement with their superannuation, or desire to plan for their retirement, in the absence of a significant trigger. That trigger may often be retirement itself.

5.42 With significant changes to legislation and government policy in this area over recent years, and associated media attention and advertising campaigns, there is some evidence to suggest that attitudes are slowly changing.

5.43 For example, research conducted for the Association of Superannuation Funds of Australia (ASFA) in 2006 shows that only 35% of consumers aged 25 years and over and currently in the workforce consider that their current savings will provide them with adequate income in retirement.⁵⁶ This figure has been in steady decline, down from 62% in 2001 and 43% in 2004. The report concludes that this decline does not represent an increase in consumers' expectations of their financial requirements, but rather a decrease in their levels of confidence regarding the adequacy of their savings.⁵⁷

5.44 Increased awareness of the need to plan and save for retirement, however, does not equate with a corresponding ability to navigate the range of financial options available at retirement. While the importance of building retirement savings throughout a consumers' working life has received significant attention, the complexity of available retirement options and the long-term implications of decisions made at the point of retirement has not.

5.45 The following findings from the attached report, *Consumer decision making at retirement*, are of particular significance:

- Many retirees do not understand that it will be necessary to make a decision about what to do with their superannuation savings when they retire.
- Most retirees only became aware of two of the three retirement income options available at the time the research was conducted (lump sum and

⁵⁵ See ASIC Media Releases MR 05-300 *ASIC issues warning to older Australians following recent increase in unsolicited share offers*, 1 October 2005; MR 06-348 *ASIC warning to older Australians: beware of 'worthless' share offers*, 29 September 2006.

⁵⁶ ANOP Research Services, (2006) *Consumer Attitudes and Plans in Light of Recent Government Policy Changes to Superannuation*, available at <http://www.superannuation.ans.au/Reports/default.aspx>.

⁵⁷ *ibid.*, at 15.

allocated pension) at, or after, retirement. Their knowledge was therefore often incomplete at the time significant decisions were made.

- The terminology and complexity associated with the various products available was overwhelming. Retirees had a poor understanding of the options available.
- Many retirees became dependant on financial advice to guide them through the decision making process.
- Retirees received complex and conflicting advice prior to making their decision, which lead to feelings of anxiety before, during and after their decision was made.
- Difficulties were experienced in recruiting participants for the survey, due to retiree's having an inaccurate or incomplete understanding of the financial products they had chosen.

Drawing superannuation benefits as a lump sum

5.46 The range and complexity of available retirement income products may drive many older Australians to opt for self-management of their retirement funds. Recent changes to the law will enable older Australians to withdraw their super tax-free, either as a lump sum or as a superannuation pension.⁵⁸

5.47 There are, however, significant risks associated with managing and investing superannuation taken as a lump sum payment. Some of these risks are discussed above. As outlined earlier in this submission, recovery from financial losses incurred as a result of risky or illegal investing may also be especially difficult for older Australians.

An overview of ASIC's activities

5.48 ASIC has prepared and published extensive information for consumers regarding their retirement income options. This information is available free of charge on the dedicated 'Retirees' page of our consumer website FIDO. We also give presentations to retirees and have recently introduced a 'staff speaker program', which will result in more of such presentations being given.

5.49 Through a range of consumer education efforts, ASIC urges older Australians choosing to draw a down a lump sum, and manage the funds themselves, to seek financial advice from licensed financial advisory businesses, to learn about investing and keep up to date with market trends and to remain vigilant in relation to scams and illegal investments.

⁵⁸ As part of the Federal Government's Better Super initiative. For more information about the changes to the superannuation system that will take effect from 1 July 2007, please visit <http://www.ato.gov.au/bettersuper>.

5.50 As discussed above, ASIC has identified this work as an even higher priority going forward.⁵⁹ Future work in this area will include a major focus on educating consumers about the importance of diversification, and the risks of particular investment options.

Electronic funds transfer and methods of exploitation in accessing funds

5.51 Consumers who are vulnerable as a result of any factor, including their age, may experience increased susceptibility to abuse in connection with access to funds or use of their credit cards. They may also face increased pressure to disclose personal passwords or PIN numbers as a result of health issues such as restricted mobility, impaired vision or memory loss.

5.52 Older Indigenous Australians may be at greater risk of financial abuse of this type than other older Australians due to the practice of 'book up'. 'Book up' commonly occurs in remote Indigenous communities, and usually involves the handing over of PIN numbers and account details to store keepers in exchange for short-term credit.

5.53 ASIC has been instrumental in producing a number of resources and reports aimed at assisting in the resolution of problems associated with book up in remote communities.

Humbugging

5.54 'Humbugging' is a phrase used in Indigenous communities to refer to behaviour in which someone pesters other community members, usually for money.

5.55 This behaviour can be of concern for older Indigenous Australians especially where they are receiving regular fixed income, for example an aged pension. In such cases, it may become common for younger community or family members to 'humbug' the older person who feels unable, or is unwilling, to refuse requests for 'loans'.

Travel insurance

5.56 As discussed above, many Australians increasingly view retirement as a time for taking on new and exciting challenges, rather than 'winding down'. One of the many benefits of longer life expectancy, and improvements in health and wealth among older Australians is the ability and desire to engage in travel during retirement.

⁵⁹ See statement by Tony D'Aloisio, ASIC Chairman, to the Senate Standing Committee on Economics, *Opening Statement on ASIC's Priorities for the Next 12 Months*, 30 May 2007, available at <http://www.asic.gov.au>.

5.57 However, the Insurance Ombudsman Service (IOS) has indicated that it is receiving a growing number of claims relating to travel insurance brought by Australians in their 70's and 80's.⁶⁰ Most frequently, the basis for rejection of a claim is a pre-existing medical condition, usually related directly or indirectly to heart disease.

5.58 The IOS has published information on its website specifically for seniors, urging them to clarify the terms and conditions of their policy. The IOS has also expressed concern that although many insurers market policies exclusively for seniors (for example, marketing travel insurance policies designed specifically for those aged 70-85 years), when assessing claims inadequate attention is focused on the fact older Australians may not be in the same physical condition as younger travellers.

5.59 IOS has reiterated in its advice to senior travellers that '*...insurance companies have an obligation to express potentially devastating policy terms in language their customers can understand and appreciate.*'⁶¹

⁶⁰ Insurance Ombudsman Service, *Travel Insurance for Seniors – Clarify the Conditions*, <http://www.insuranceombudsman.com.au/pages/ui/container/shared/news.aspx?id=1&archived=&newsid=30>.

⁶¹ *ibid.*

Section 6: Current initiatives and activities

6.1 Outlined below are some activities and initiatives ASIC is currently implementing or participating in, all of which address the specific needs of older Australians.

Australasian Consumer Fraud Taskforce

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

6.3 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.⁶² 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.⁶³

6.4 The goal of the ACFT is to enhance enforcement activity against frauds and scams, and to increase consumer awareness of the frauds and scams targeting them. The ACFT members participate in an annual consumer awareness campaign that aims to deliver information to consumers that will assist them to identify and avoid scams.

6.5 The most recent campaign ‘Scams target you!’ was run over 4 weeks during March 2007.

Consultation with consumer representatives—Consumer Advisory Panel

6.6 ASIC’s Consumer Advisory Panel (CAP) was established in 1998 to advise ASIC on current consumer protection issues and give feedback on ASIC policies and activities. CAP also advises ASIC on key consumer research and education projects.

6.7 The members of CAP are selected to reflect a diverse range of consumer interests across the financial services sector. Currently the nine-member panel includes representatives from the Australian Council on the Aging (COTA) and National Information Centre on Retirement Investments (NICRI). Both members are well placed to represent the interests and concerns of older Australians.

⁶² The ACFT also has a range of community, non-government and private sector organisations as partners.

⁶³ 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.

6.8 Some of the issues of concerns recently reported to ASIC on behalf of the members of these agencies include:

- the increasingly crucial role of retirement savings in people’s life-time well-being;
- availability of accurate, informative and appropriate high quality information about financial products and services;
- various issues surrounding reverse mortgage/equity release products including their marketing, sales, long term impacts, associated fees and costs, terms and conditions.

Consumer education and outreach strategies

6.9 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.

6.10 The data in the following table shows that 34% of those aged 65 years and over access the internet at least monthly, compared to 70% of the population aged 14 and over.

Table 1: Internet access (Australians 14+)

	Total	Aged 14–24	Aged 25–49	Aged 50–64	Aged 65+
Population ('000)	16,623	3,106	7,298	3,772	2,447
Accessed the internet at least monthly	70%	80%	79%	65%	34%

Source: Roy Morgan Research 12 months to March 2006

6.11 Compared to the general population, people aged over 65 are half as likely as the general Australian population to access the internet at least monthly. ASIC addresses such concerns by providing information for consumers using a range of different media. These include:

- web-based information;
- interactive tools (calculators and quizzes);
- printed consumer publications (including translated publications);
- telephone services;
- audio (distributed via radio or by podcast on our website);
- print media;
- face-to-face interaction at Expos nationally.

Web-based information

6.12 A significant amount of consumer education material is available from ASIC on a range of financial topics. All financial information is available free of charge to consumers and is made available on our consumer website FIDO.⁶⁴

6.13 The FIDO site has a dedicated page entitled 'Retirees' where financial information specifically relevant to older Australians is available for reference. Some features of the information provided by ASIC on this page include:

- information on reverse mortgages, and other equity release products;
- information on planning for retirement;
- information on retirement income options;
- life expectancy tables, developed in conjunction with the Australian Government Actuary;
- a range of financial calculators, including a superannuation calculator and a reverse mortgage calculator.

Consumer publications

6.14 As well as its guide to making a complaint about a financial product or service (discussed above), ASIC publishes a wide range of other information about financial products, services and issues in user-friendly format, including the following consumer-focused publications.

Your money ASIC guide to getting more from your money and how to manage your budget loans, insurance, superannuation and retirement savings. This guide is available in English, Arabic, Chinese, Italian, Greek, Turkish and Vietnamese.

Dealing with debt This publication was developed jointly with the ACCC. The guide provides consumers with tips and practical information on how to manage debts and how to deal with debt collectors. This brochure is currently being translated into Arabic, Chinese, Italian, Greek, Turkish and Vietnamese.

Super Choices This Australian Government publication provides a comprehensive guide to understanding and making decisions on superannuation

Telephone services

6.15 ASIC's telephone information service, Infoline, is a facility available to all consumers to provide information relating to:

- general enquiries about what ASIC does and our services;
- queries about financial services or products; or
- requesting free copies of our booklets and brochures.

⁶⁴ <http://www.fido.gov.au>.

6.16 ASIC is currently conducting a research survey to identify characteristics of consumers who use its Infoline service, with the aim of further improving this service and ensuring maximum impact in the delivery of its consumer education messages. Although this research has not yet been completed, preliminary results indicate that a significant proportion (23%) of callers are aged 60 years and over.

6.17 This indicates that a significant proportion of consumers contacting ASIC for financial information are close to, or fall within, this inquiry's definition of older Australians.

6.18 ASIC is also in the process of expanding its existing Infoline service by delivery of enhanced training for staff on a range of topics of particular importance, or topical relevance. Examples include new information on equity release products and financial scams.

Audio and print media

6.19 ASIC regularly releases information specifically targeted at older Australians via consumer alerts.

6.20 In 2005 ASIC released a consumer alert to mark the International Women's Day on 8 March, urging women to engage with their superannuation.⁶⁵ In both 2005 and 2006 ASIC released consumer alerts to mark the International Day of Older Persons on 1 October.⁶⁶

6.21 ASIC has also produced a series of information radio programs for community radio broadcasters across Australia. The six-part series of programs is designed to encourage people from all walks of life to use their money more wisely, better understand and manage their loans, insurance, superannuation and retirement savings, understand the risks of investing and avoid scams and swindles. The programs are also available for download from ASIC's consumer website, FIDO.

Attendance at retirement and lifestyle Expos nationally

6.22 ASIC's staff regularly attend Expos and other events around Australia to meet consumers face to face. On these occasions consumers have the opportunity to discuss their interests and concerns directly with ASIC representatives, as well as receiving free information, tips and publications.

6.23 ASIC has recently expanded its focus from attendance at Expos with a money or investment theme to Retirement & Lifestyle Expos. During 2006, ASIC attended 3-day events in Sydney, Melbourne and Canberra. Attendance at Retirement Expos in these cities is planned again for 2007, in addition to Brisbane.

⁶⁵ See ASIC Media Release MR 05-50 *Are you a super woman? ASIC's superannuation tips for women*, 8 March 2005.

⁶⁶ See ASIC Media Releases: MR 05-300 *ASIC issues warning to older Australians following recent increase in unsolicited share offers*, 1 October 2005; MR 06-348 *ASIC warning to older Australians: beware of 'worthless' share offers*, 29 September 2006.

Appendix: Statistical data

The following statistical data has been sourced from information published by the Australian Bureau of Statistics (ABS).⁶⁷

Aging population

- Between 30 June 1986 and 30 June 2006 the proportion of the Australian population aged 65 years and over has increased from 10.5% to 13.3%.
- In the year ended 30 June 2006, the number of people aged 65 years and over in Australia increased by 2.5%.
- According to ABS projections⁶⁸, between 2005 and 2010 the proportion of Australians aged 65 years and over is expected to increase from 13.1% to 14.3% of the population. This proportion of the population is projected to increase further to between 26% and 28% by 2051 (at which time, projections indicate that almost half the population may be over 50 years old).⁶⁹
- Between 30 June 1986 and 30 June 2006 the proportion of the population aged 85 years and over doubled, from 0.8% to 1.6%.
- In the year ended 30 June 2006 the number of people aged 85 years and over increased by 8% (representing an increase of 25,100 people, resulting in a total of 338,000 in that age group).
- Projections suggest that Australians aged 85 years and over will make up between 2% and 3% of the population by 2021 and between 6% and 8% by 2051 (representing between 1.6 and 2.7 million people).

Increased life expectancy

- Australia boasts some of the highest life expectancy figures in the world and improving life expectancy rates have been a major contributing factor in the aging of our population.
- Since 1985 there has been an increase in life expectancy of 6 years for men, and 4.5 years for women.⁷⁰
- Australian boys born in November 2006 could expect to live to an age of 78.5 years, while girls could expect to live to 83.3 years. The odds improve significantly though for those Australians who reach the age of 65, from which point men can expect to live another 18.1 years, and women another 21.4 years.⁷¹

⁶⁷ Available at <http://www.abs.gov.au>.

⁶⁸ The ABS projections illustrate population change or growth that could occur over time, if certain assumptions hold true. They are not predictions or forecasts of population growth or change.

⁶⁹ ABS Media Release 125/2005 *Australia in 2051: almost half the population older than 50 years*, 29 November 2005.

⁷⁰ ABS Media Release 114/2006 *Australians living longer than ever*, 30 November 2006.

⁷¹ *ibid.*

Working population

- In the year ended 30 June 2006, 169,700 people turned 65 and left the working age population (that is, the 15–64 age group).
- Although figures indicate that the number of people entering the working age population still currently exceed the number of people leaving the working age population, this excess is projected to decline over the next decade as the first cohort of ‘baby boomers’ reach age 65.