SUBMISSION TO THE TREASURY OF AUSTRALIA

Consultation Paper: Curbing Lead Generation Activity

Submitted by: SOS Save Our Super, Investor Advocacy

On behalf of victims of the First Guardian and Shield Master Fund collapses

Submission deadline: 22 May 2026

SOS Save Our Super is an investor advocacy group representing thousands of individuals who suffered devastating financial losses as a result of the collapse of the First Guardian and Shield Master Fund. Our members are ordinary Australians: teachers, nurses, tradespeople, small business owners, and retirees. Many of whom lost the majority, or in some cases, all of their superannuation savings. These were not sophisticated investors who made poorly judged bets. They were everyday people who were cold-called or targeted through social media advertisements, subjected to high-pressure sales tactics, and funnelled by lead generation networks into unsuitable and ultimately catastrophic financial products.

These investors do not fall under what some call a 'moral hazard', there was never an attitude of 'if it goes to crap, the government or the taxpayers will pick up the pieces.' These investors trusted the institution of Superannuation. An institution governed and regulated by the Australian government.

We used Licensed Advisors, Regulated licensees, Platforms and APRA Regulated Trustees. A highly complex structure built to protect the 12,000 Australians caught up in the collapse of the First Guardian and Shield Master Funds.

Families and marriages have been ripped apart. It is not just the regulator, advisors, licenses, and trustees pointing fingers. There are spouses, brothers and sisters, parents and children pointing fingers at one another for what they see as foolishness. Victims are being shamed not just by family members but by the public, all due to a lack of education. On top of dealing with the gut-wrenching loss of their retirement savings, they are subjected to humiliation, delays, finger-pointing and what most see as a government that is more interested in fixing the future than the present.

We welcome this consultation as an overdue and necessary action. The evidence from our members' experiences makes clear that the existing regulatory framework failed them. Lead generators exploited current loopholes in the law by circumventing anti-hawking protections with ease. Many of the advertisements were deceitful and treated like fishing bait. They had little accountability while misaligned incentives ran unchecked through complex remuneration chains.

The reforms canvassed in this paper, if implemented boldly and in combination, have the potential to prevent future harm of the kind our members have suffered.

We urge the Government to view this as an opportunity not just to close regulatory gaps, but to fundamentally realign the financial services lead generation ecosystem so that consumer interest, not sales conversion, is its core principle. Thank you for this opportunity to submit our responses.

Section 1: Policy Problem

Question 1: What types of lead generation activities within the financial services sector provide consumer benefit?

SOS Save Our Super considers the broad definition of lead generation outlined in the Treasury paper to be an appropriate starting point. Based on the experiences of our members, we believe the consumer harm associated with lead generation activity in the financial services sector substantially outweighs any potential consumer benefit.

We acknowledge there are legitimate activities that provide consumer benefit, including:

- the provision of accurate, independent, factual information about superannuation products (such as objective fee comparisons),
- general awareness advertising by licensed financial institutions about their products and services,
- educational content that helps Australians understand their retirement savings and how superannuation works, and
- comparison tools that are operated transparently and do not collect or sell personal data as their primary commercial purpose.

These activities should be distinguished from lead generation models that are designed primarily to capture personal information and funnel consumers into sales pipelines regardless of their individual circumstances.

The experiences of our members demonstrate that many lead generation activities that purported to provide these benefits, including 'find my lost super' tools and 'superannuation health checks' are in reality designed to capture personal information and sell that data to financial advice providers, with remuneration structured around sales conversion. This was not a consumer benefit; it was consumer exploitation dressed in a helpful interface.

Question 2: How should lead generation activities be defined to target consumer harm without capturing legitimate marketing or information services?

SOS Save Our Super supports a clear definition that captures activities where an entity collects or uses a person's information in connection with a financial product or service, and where the purpose, or likely outcome, is to direct that person to a financial adviser or product issuer, and the entity receives a commercial benefit for doing so.

This definition should not capture general marketing, education, or simple referrals where no personal data is collected or shared. The key difference is when personal information is collected and passed on, and when there is a commercial incentive tied to directing someone toward a specific financial service.

It is also important that the definition captures all entities involved in the chain, not just the adviser or product issuer. As seen in the Shield and First Guardian cases, harm arises from the cumulative effect of multiple actors operating in a sequence where each party may appear harmless on its own, but together they lead to serious consumer harm.

Question 3: Does the business model used in the Shield and First Guardian cases raise any potential for unintended consequences in relation to any aspect of the Delivering Better Financial Outcomes (DBFO) reform package?

Yes. We are concerned that several elements of the DBFO Tranche 2 reforms could, if not carefully calibrated, inadvertently create new opportunities for the lead generation business models to operate.

In particular:

- targeted nudges could be mimicked by unlicensed actors to create urgency-framed marketing, and
- a new limited-scope adviser class could be exploited as a low-scrutiny pathway for funnelled leads.

To address these risks:

- clear guardrails will need to be established to distinguish between legitimate member communications from a registered fund versus third-party marketing disguised as nudges, and
- any new adviser category must carry equivalent safeguards against lead-generation-funded misalignment of interests.

The DBFO package's legitimate goal 'making advice more accessible' must not become a vehicle for making it easier to sell unsuitable products to vulnerable Australians at scale.

If these risks are not able to be controlled, SOS Save Our Super believes a ban on lead generation related to superannuation and/or financial services is necessary until such time as identified unintended consequences and loopholes are addressed.

Section 2: Enhance Accountability for the Conduct of Lead Generators Licensing

Question 4: Would reforms to require licensing for certain lead generation activities be an effective and proportionate way to curb harmful lead generation activities?

Yes. SOS Save Our Super strongly supports the introduction of a licensing requirement for lead generation activities connected with financial products and services. The absence of licensing has been one of the most significant factors enabling harmful conduct in the Shield and First Guardian cases. Lead generators operated without regulatory accountability, without record-keeping obligations, without supervision by ASIC, and without any formal obligation to act in consumers' interests.

Licensing creates accountability, visibility, and a mechanism for enforcement. It means that entities engaging in harmful conduct face meaningful consequences, including loss of licence. It also means that ASIC can track individuals across entities, preventing the serial misconduct that has been observed when operators close down one business and reopen under a new name. It would also restrict lead generation companies from operating offshore.

The additional compliance cost is proportionate and justified, given the potential for harm. Consumers routinely face financial losses measured in tens or hundreds of thousands of dollars as a direct result of lead generation misconduct. A licensing regime is not an undue burden on a legitimate business; it is a basic accountability requirement.

Question 5: What is the scope of activities that should be captured under the licensing reform? Should this be limited to activities in relation to superannuation?

Our members' experiences overwhelmingly relate to superannuation, and we now recognise that superannuation carries unique risks; it is typically a person's most significant asset, and switching decisions can have decades-long, irreversible consequences. We therefore strongly support superannuation being the primary focus of any initial licensing regime.

However, we caution against limiting reform exclusively to superannuation. Lead generators aware of licensing requirements for superannuation-related activities could pivot to framing consumer engagement in terms of managed investments, SMSFs, or other financial products that achieve the same harmful outcome. The licensing requirement should encompass lead generation activities connected with any financial product or service where the acquisition of that product is the likely downstream consequence.

We support the 'broadest' definition outlined in Option 1a as the most appropriate starting point, with ASIC empowered to provide regulatory guidance on what constitutes incidental versus core lead generation activity.

Question 6: How should lead generation activities be defined to target consumer harm without capturing legitimate marketing or information services?

The definition should focus on three key themes:

1. whether a person's identifiable personal information is collected, not just general or anonymous data,
2. whether that information is passed on to a financial adviser or product provider through a commercial arrangement, and
3. whether someone is making money from that connection, such as through lead fees, referral fees, or payments linked to a successful outcome.

Activities that do not collect or share personal information, like general advertising, financial education, or anonymous comparison tools, should be excluded. However, if a tool claims to be anonymous but actually collects personal details through forms, call-back requests, or sign-ups, it should still be captured under this definition.

We also recommend that ASIC be given clear authority to issue guidance on what is and isn't included, and to update that guidance as business practices change and new models of lead generation emerge.

Question 7: What would be the implication of banning all unlicensed communication about superannuation for commercial purpose? What exceptions or carve-outs would be required?

SOS Save Our Super supports Option 1b as a powerful and clear-cut protective measure. From the perspective of our members, many of whom were confused about whether the entities contacting them were licensed or not, a straightforward prohibition on unlicensed communication about superannuation is a necessary protection.

Exceptions would include:

- employers communicating with employees about their default fund obligations,
- superannuation fund trustees communicating with their own members about fund performance and options,
- genuinely independent financial journalists and media organisations, and
- registered education providers delivering accredited financial literacy programs.

These exceptions should be narrowly and carefully drafted to prevent bad actors from claiming an educational or journalistic exemption while in practice operating lead generation funnels. The commercial benefit test is the most important safeguard; if an entity derives financial value from superannuation-related communications with consumers, it should be required to be licensed.

Licensee Accountability

Question 8: Would reforms to impose additional obligations on AFS licensees using lead generators be an effective way to curb lead generation activities?

Yes. Option 1c, enhanced licensee accountability, is in our view one of the most practically effective reforms proposed in this paper, and we strongly support it alongside (not instead of) a licensing requirement for lead generators themselves. The Shield and First Guardian cases demonstrate that financial advisers and licensees benefited from lead generation models while maintaining deliberate distance from the practices of the lead generators who fed them clients.

Imposing a clear obligation on licensees to take reasonable steps to ensure that leads are sourced in compliance with the law creates a powerful commercial incentive to scrutinise and monitor lead generator conduct. It aligns accountability with benefit where the entity that profits from the consumer referral bears responsibility for how that referral was generated.

This approach mirrors the UK model and represents sound regulatory design.

Question 9: What additional obligations (if any) are appropriate to place on advice licensees using lead generation services to strengthen accountability and support effective enforcement?

We recommend the following specific obligations in addition to the proposed ban on unlicensed lead generation activity and unlicensed communication about superannuation. On their own, these measures are unlikely to be sufficient to prevent consumer harm, however they would strengthen accountability and improve ASIC's ability to monitor and enforce compliance where lead generation activity continues to occur:

- mandatory written agreements between licensees and any lead generators they engage, with those agreements required to include compliance representations and audit rights,
- transparent conflict of interest disclosures, including perceived conflicts of interest,
- fee disclosures,
- a requirement that lead-generators clearly disclose to consumers which adviser or licensee they are representing
- mandatory retention of records of all consumer contacts arising from lead generation arrangements for a minimum of 7 years,
- a requirement to report to ASIC any lead generator that the licensee has reasonable grounds to believe has engaged in non-compliant conduct,
- mandatory reference and background checks on lead generators before engagement,
- check against any ASIC register of disqualified or warned entities, and
- a prohibition on accepting leads from any unlicensed entity (if Option 1a proceeds) or from any entity that the licensee knows or suspects has engaged in misleading or high-pressure conduct.

These obligations should not be framed as aspirational or best practice; they should be specific, auditable requirements enforceable by ASIC.

Question 10: What penalties would be appropriate and effective in deterring misconduct?

Our members' losses demonstrate that financial penalties must be significant enough to be a genuine deterrent, not merely a cost of doing business. We recommend civil penalties aligned with those applicable to other serious financial services misconduct, including penalties calibrated to the greater of a fixed amount or a multiple of the benefit obtained from the misconduct.

We also support licence cancellation and disqualification of individuals for serious or repeated breaches. The ability of individuals to simply move between entities, a pattern observed in connection with lead generation misconduct, must be curtailed through effective individual accountability. Criminal penalties should be available for deliberate or reckless conduct causing substantial consumer harm.

Design and Distribution Obligations

Question 11: Would reforms to clarify and specifically extend the DDO obligations to lead generators be an effective way to curb lead generation activities?

Yes. Ensuring financial products are being promoted to consumers in which they are suited will minimise practices such as high volumes of inflows into unsuitable products, as was seen with Shield and FIrst Guardian. We acknowledge that if DDO obligations were to be extended to lead generators to address consumer harm at the early stage of the advice process, that there would be challenges with practical enforcement that will need to be addressed for this strategy to work and to protect consumers from harm.

DDO reforms may help reduce harm, but they are weaker than stopping the lead generation pipeline in the first place. We do support this reform, but we do not believe DDO reforms alone would be as effective as stronger structural reforms such as banning unlicensed lead generation activity connected to superannuation, strengthening anti hawking protections, and restricting conflicted remuneration arrangements.

DDO should therefore operate as part of a broader package of reforms rather than a standalone solution.

Question 12: What would be the implication of specifically extending the application of DDO to lead generators?

The Treasury would need to consider changes to the DDO regime if it is to be extended to lead generators. For example, 'personal advice' is currently considered excluded conduct. This exclusion would contradict lead generation whose whole purpose is to refer consumers to financial advisers for personal financial advice, even though the lead generators themselves are not providing the personal advice.

Question 13: What issues would arise from clarifying that certain lead generation activities constitute retail product distribution conduct for DDO purposes?

Nil response.

Section 3: Extend Anti-Hawking Requirements

**** Opening text -** Each time a lead generator collects consumer data, the adviser or their licensee who commissioned that activity should remain fully responsible for the conduct of the lead generator and the handling of that consumer data. That data should not be reused, passed on, recycled, or sold into additional sales pipelines without the consumer's clear, active and informed consent. Silence or failure to respond must not be treated as consent.

Consumers should be required to separately confirm: who is contacting them, which adviser or licensee will receive their information, the commercial purpose of the interaction, whether their data may be shared with third parties, and that they are under no obligation to proceed.

This protects consumers from having their data recycled through multiple sales pipelines without their knowledge, such as what is currently occurring to First Guardian and Shield victims. It also gives advisers confidence that the leads they receive are current, lawful, and genuinely intended for them.

Directors must be held accountable. If data is not retained for a minimum of seven years, liability should sit with them personally and be asset-backed.

Many of our members have recently been cold-called by an unrelated financial advice firm called Solara Wealth. Solara Wealth admitted they purchased consumer data from a marketing firm; including the names, phone numbers, email addresses and the month/year in which victims entered their details to have a 'super health check'. This example highlights why it is critical to extend anti-hawking requirements to stop this type of abuse of the current system.

Question 14: Would reforms to the hawking prohibition be an effective way to curb harmful lead generation activity?

Yes. Reform of the hawking prohibition is essential and overdue. The experiences of our members demonstrates that the current framework, despite its intent, has been exploited systematically. The combination of click-bait advertising to obtain broad consent, followed by high-pressure cold calling, followed by immediate transition to a financial adviser, allowed the hawking prohibition to be easily circumvented. Closing these loopholes would significantly reduce harmful lead generation business models from operating.

We support both Option 2a and Option 2b being progressed together.

Question 15: How would a ban on non-consumer initiated real-time contact impact the offer of financial products and the provision of financial advice?

A requirement for consumer-initiated contact would represent a significant shift in practice for some legitimate financial advisers and product providers who currently rely on outbound contact to reach new clients. We acknowledge this impact and do not wish to prevent financial advisers from growing their client base.

However, the experiences of our members suggest that the harm caused by non-consumer-initiated contact in the superannuation context is severe and widespread and not limited to the network related to Shield and First Guardian. We would support a targeted version of this reform requiring consumer-initiated contact specifically in relation to superannuation switching advice, as a proportionate and effective measure aimed at the area of greatest demonstrated consumer harm.

Question 16: Would enhancing the consent disclosures made during the real-time contact with consumers ensure that engagement with lead generators and financial advisers is genuinely informed and voluntary?

Enhanced consent disclosures are a necessary but not sufficient reform on their own. Our members consistently describe being confused about who was calling them, what the purpose of the call was, and what they were agreeing to. Many did not understand that clicking on a social media advertisement constituted consent to cold calling. A significant number of members expressed they thought they were speaking to a super specialist from the ATO or Macquarie Bank.

Mandatory upfront disclosure of the caller's identity, the commercial purpose of the call, any fees or benefits the caller stands to earn, and the consumer's right to end the contact immediately would represent a material improvement. However, research on consumer behaviour consistently demonstrates that verbal disclosures at the start of a call are often not fully absorbed, particularly by consumers in vulnerable circumstances or under sales pressure.

Disclosure reforms should therefore be combined with structural reforms, including stronger consent requirements and limits on the personal advice exemption, rather than treated as a standalone solution.

We recommend that at the beginning of each lead generation call, consumers are provided with a consent approval link explaining the purpose of the call, confirming they are willingly seeking advice, and are fully informed of the intent before proceeding **(See Annexure 1).**

Question 17: How would the removal of the personal advice exemption impact the provision of financial advice?

Removing the personal advice exemption from the hawking prohibition would prevent the practice central to the Shield and First Guardian business model, of using a financial adviser's best interests duty to 'cleanse' unsolicited consumer contact. This is the most direct and targeted response to the specific mechanism of harm experienced by our members.

The impact on genuine financial advisers serving new clients would need to be managed. Financial advisers who acquire clients through genuine referral networks, inbound enquiries, or existing professional relationships would not be materially affected. The primary impact would be on advisers who rely on cold-called consumer lists generated by third-party lead generators, and this is precisely the conduct that reform should target **(See opening text **).**

Question 18: Would limiting the operation of the exemption to existing clients or non-superannuation products provide appropriate protection for consumers?

Nil response.

Question 19: Of the approaches canvassed under Reform 2, which approach, or combination of approaches, would be most effective?

SOS Save Our Super recommends the following combination: enhanced consent requirements (Option 2a) requiring upfront disclosure of caller identity, purpose, and commercial interests at the start of every real-time consumer contact; and restriction of the personal advice exemption (Option 2b) in relation to superannuation switching advice.

This combination addresses both the mechanism by which consent is obtained (click-bait advertising leading to broad, poorly understood consent) and the mechanism by which unsolicited contact is subsequently legitimised (the personal advice exemption). Together, these reforms would substantially undermine the business model that was used to harm our members **(See above text **).**

Section 4: Target Remuneration Structures

Question 20: Would reforms to the conflicted remuneration provisions be an effective way to curb harmful lead generation activity?

Yes. Conflicted remuneration (including pay-per-lead fees, referral fees, and ongoing commissions paid from consumers' superannuation accounts) is one of the core drivers of the harmful lead-generation ecosystem that caused catastrophic losses for our members. The business models used in the Shield and First Guardian collapses were built on aggressive, conversion-based remuneration structures that rewarded volume, not suitability.

Reforms to the conflicted remuneration provisions is critical. We support both Options 3a and 3b being progressed together.

Question 21: What lead generation remuneration arrangements or practices may create incentives for poor conduct or circumvent existing conflicted remuneration provisions? Are there remuneration practices associated with lead generation that pose a low risk of influencing financial advice, and should not be captured by reforms?

Lead generators involved with Shield and First Guardian demonstrated how easily current rules can be circumvented, allowing poor conduct to thrive. The following are practices currently employed by lead generators of particular concern:

- pay-per-lead fees paid by product issuers to lead generators for each consumer referred who ultimately acquires the product,
- referral fees paid by financial advisers to lead generators for each client referred, including ongoing percentage-based fees deducted from the client's superannuation,
- arrangements where lead generators are nominally paid by an intermediary rather than directly by a product issuer or adviser, but where the commercial purpose and financial benefit are ultimately the same, and
- informal arrangements involving non-monetary benefits such as exclusive access to client lists, marketing support, or technology platforms.

Remuneration arrangements that pose a genuinely low risk of influencing advice, such as fixed-fee, non-outcome-contingent payments for advertising or marketing services with no connection to financial advice outcomes, should not be captured, provided they are transparent and not contingent on conversion.

Question 22: Would a broad prohibition that captures transactions beyond those that directly involve advice providers, product issuers/sellers and lead generators, be appropriate to curb misaligned incentives?

Yes, with appropriate safeguards. The use of intermediary entities to break the formal remuneration chain, while maintaining the economic benefit, have been a key mechanism for circumventing the conflicted remuneration ban in the cases involving our members. A prohibition that looks through formal corporate structures to the economic substance of the arrangement is necessary to prevent this circumvention.

The safeguard required is a sufficiently clear nexus test. The prohibition should apply where there is a reasonable basis to conclude that payments or benefits, directly or indirectly, could influence the advice provided. This prevents regulatory overreach while closing the loopholes that have been exploited.

Question 23: How would broadening the definition of 'benefit' impact remuneration practices?

Broadening the definition of 'benefit' would force the industry to confront the full range of incentives that distort advice. Currently, many benefits fall outside the narrow definition of conflicted remuneration, allowing advisers and lead generators to maintain commercial relationships that influence product recommendations not in clients' best interest.

Expanding the definition of 'benefit' to include:

- sponsorships,
- marketing payments,
- platform incentives,
- lead-purchase arrangements,
- volume-based payments, and
- non-monetary benefits such as training, software, or exclusive access

would significantly reduce the ability for value to be hidden in soft benefits, referral arrangements, or indirect payments, and push the industry toward cleaner, client-aligned fee structures. In practical terms, it strengthens the link between how advisers are paid and what is genuinely in the consumer's best interest, rather than what drives sales or product placement, which has historically resulted in poor outcomes.

Question 24: Of the approaches canvassed under reform 3, which option or combination of options would achieve the best balance between consumer protections, while facilitating consumer choice and minimising regulatory burden?

SOS Save Our Super supports a combined approach that includes:

- **option 3a:** strengthening the conflicted remuneration ban to capture all forms of lead-generation payments,
- **option 3b:** expanding the definition of "benefit" to include indirect and non-monetary incentives.

This combination is necessary to address the full spectrum of remuneration practices that contributed to the harm experienced by our members.

It will also target harmful incentives without imposing undue burden on legitimate advisers who operate on transparent, client-aligned fee models.

Section 5: Target Advertisements for Earlier Intervention

Question 25: Would requiring superannuation advertisements to display an AFS licence number be an effective way to curb lead generation and improve transparency for consumers?

Yes, requiring superannuation advertisements to display an AFS license number may improve transparency for consumers and make it easier for regulators and consumers to identify who is behind a financial advertisement.

We do not believe this would be a standalone reform to provide consumer protection and significantly reduce harm. Many consumers do not understand what an AFS licence is, how to verify it, or what limits of protection it provides. Whilst we support improved transparency measures, they should only operate as part of a broader package of reforms which include stronger anti-hawking protections, restrictions on lead generation activity that is connected to superannuation, along with stronger accountability requirements for licensees and advisors.

We recommend that ASIC run a media campaign and publicise the ability for consumers to verify AFS licence status through its registers, and actively monitor superannuation advertising to detect non-compliant advertisements, particularly on social media.

Question 26: What practical implementation issues or costs would arise for advertisers, publishers and licensees?

The practical implementation costs for compliant advertisers are minimal since displaying a licence number in an advertisement is a straightforward requirement. The principal compliance cost falls on digital platforms and publishers, who would need systems to verify licence number validity before accepting advertising. We note that platforms already have ad verification processes for other purposes (including scam prevention obligations under the Scams Prevention Framework), and the incremental cost of adding AFS licence verification to those processes should not be disproportionate.

A transition period of three to six months would be reasonable to allow platforms to establish verification processes. ASIC should make its licence register available in a format that supports automated verification by platforms.

Question 27: Would a broad prohibition on advertisements in relation to superannuation without an AFS licence unduly constrain legitimate advertising?

No, provided the requirement is limited to commercial advertising designed to generate consumer leads or promote specific products or services. Genuine educational content, news journalism, and general financial literacy materials would not be captured if the licensing requirement is appropriately targeted to commercial promotion.

We recommend that the prohibition be framed in terms of advertisements that promote a specific superannuation product, service, or switching opportunity, rather than any communication that mentions superannuation in passing. This would protect educational and journalistic content while capturing click-bait and promotional material that has been the gateway to harm for our members.

One of our members clicked on an article titled '9 out of 10 super funds are underperforming, is yours one of them'. What followed was not education, or journalism, but data capture and direct contact, showing how easily promotional content on social media can be disguised and still slip through the cracks.

Question 28: In relation to ASIC's stop order power, what threshold test would be appropriate to ensure that ASIC's stop order powers are exercised proportionately and do not unduly restrict legitimate advertising?

SOS Save Our Super supports Option 4b and recommends that the threshold for issuing an interim stop order be set at a level that enables ASIC to act swiftly when it identifies an advertisement that forms part of a business model it has reasonable grounds to believe is causing or likely to cause substantial consumer harm, even if the advertisement itself is not misleading on its face.

The current requirement for an advertisement to be misleading or deceptive is too narrow. As this consultation paper acknowledges, many lead generation advertisements (such as 'find my lost super' tools) are not technically misleading. The harm arises from what they are connected to, not what they say. ASIC must be empowered to intervene in the advertising stage when it has identified a harmful business model operating behind an apparently innocuous advertisement.

Procedural safeguards, including the right to be heard and judicial review, should be maintained. But the threshold for ASIC action should be 'reasonable belief of substantial consumer harm' rather than demonstrated misleading conduct.

Question 29: Are there any other changes to the regulation of financial advertisements that would better address emerging risks associated with lead generation practices?

We recommend consideration of the following additional measures:

- a requirement that advertisements relating to superannuation carry a standardised consumer warning, similar to health warnings on tobacco products, noting that the advertiser may not be acting in the consumer's interests and directing consumers to verify the advertiser's AFS licence,
- mandatory disclosure of commercial relationships in all superannuation-related advertising, including any financial arrangements between the advertiser and financial advisers or product issuers,
- expanded obligations on digital platforms to actively monitor and remove superannuation advertisements where the associated AFS licence is suspended, cancelled, or subject to an ASIC banning order, and
- ASIC being given a dedicated digital advertising surveillance function, resourced to proactively monitor social media platforms for non-compliant superannuation advertising.

CLOSING

The collapse of First Guardian and Shield was not simply the failure of individual investments. It was the result of an industrial-scale sales machine that preyed on trust, confusion, financial vulnerability and the compulsory nature of Australia's superannuation system.

At the very centre of that machine sat lead generation. Australians were not searching for high-risk managed investment schemes. They were engaging in activities widely regarded as financially responsible, such as seeking help to locate lost super, comparing super funds, or obtaining professional assistance to complete a super health check. Many believed they were interacting with government-related services or trusted institutions. Instead, they were unknowingly entering highly sophisticated sales funnels designed to harvest personal information, manipulate them emotionally, create fear about underperforming superannuation, and funnel them toward advisers and products that generated the highest commercial return for those involved.

The current regulatory framework allows lead generators to operate in the shadows while influencing some of the most significant financial decisions of a person's life.

The harm caused by these practices cannot be measured purely in dollars.

It is measured in broken marriages, sleepless nights, humiliation, deteriorating mental health, loss of dignity and loss of trust in the system.

Our members include people battling cancer, chronic illness, disability, unemployment and financial hardship. Many are older Australians who believed compulsory superannuation came with rigorous government oversight and protection. Instead, they discovered too late that an entire ecosystem of lead generators, marketers, advisers, platforms and trustees could profit from their retirement savings while accountability remained fragmented and delayed.

One story that reflects this devastating human cost is Scott's.

Scott is 45 years old and worked as a plumber. Like many Australians, he and his partner were juggling mortgage pressures while trying to build a secure future. Scott simply typed "find my super" into a search engine believing he was accessing a legitimate government-related service. Instead, he was funnelled into a lead generation network connected to the First Guardian collapse.

In March 2024, Scott suffered a catastrophic pulmonary embolism. He was rushed to intensive care and transferred to a specialist haematology unit. His lungs never recovered. He can now barely walk to his letterbox and is considered medically unable to ever work again.

At the same time as his physical health deteriorated, and his capacity to work and earn an income faded away, he also discovered his superannuation had collapsed.

He now faces permanent disability, loss of income, financial uncertainty and severe depression.

His mother, now 67 years old and still working full time, has been left trying to navigate an impossibly complex system on his behalf while fearing for her son's welfare and mental health.

This is not an isolated story.

It is the human reality behind lead generation misconduct. These were not sophisticated investors chasing risky opportunities. These were ordinary Australians who trusted a system they believed was regulated and safe.

The most critical reforms arising from this consultation must include licensing of lead generation activities connected to financial products and superannuation, stronger anti-hawking protections, removal of the personal advice exemption being used to "cleanse" cold-called consumers, direct accountability for licensees using lead generators, a ban on conflicted remuneration linked to lead generation, and stronger ASIC powers to remove misleading financial advertisements before harm occurs.

Most importantly, the Government must recognise that lead generation is not merely a marketing issue. It is a consumer protection crisis.The First Guardian and Shield collapses exposed how easily Australians can be manipulated through deceptive advertising, behavioural nudges and high-pressure sales tactics when financial incentives override consumer wellbeing.

Australians should never lose their retirement savings because they clicked on what they believed was a harmless 'super health check' or super comparison.

Compulsory superannuation carries with it a social contract. Australians are forced to place their retirement savings into the system throughout their working lives. In return, they reasonably expect the system to be safe, transparent and worthy of trust.

For thousands of First Guardian and Shield victims, that trust has been shattered along with their mental health.

This consultation is an opportunity to ensure it is never shattered again.

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Case Studies Contributions made by: Members of the SOS Save Our Super Facebook Page

Annexure 1

SOS - Consent Protocol

We recommend a mandatory protocol to qualify if a consumer fully understands the nature of the call

CONSUMER CONSENT PROTOCOL

Prepared By: Melinda Kee

Lead Generation Call Checklist

10 Questions Every Caller Must Ask

WHY THIS CHECKLIST EXISTS

Lead generation calls in financial services — especially superannuation — carry serious risk of consumer harm. Callers must ensure the person on the line:

- Understands who is calling and why
- Has not been misled about the purpose of the call
- Knows their data may be shared, and with whom
- Is freely choosing to continue, without pressure
- Can end the call at any time, no consequences

No consent = no call. All questions require a clear YES before proceeding.

1

CALLER IDENTITY

WHY THIS MATTERS
Callers must disclose they are not providing personal financial advice. Many victims believed they were speaking with a licensed professional from the outset.

Q1 — CALLER IDENTITY

"Before we go any further, can I confirm you understand that this call is from [Company Name], a lead generation service, and not a licensed financial adviser?"

YES — Yes, I understand

NO — End call. Do not proceed.

Record all responses. A clear YES is required before proceeding to the next question.

2

PURPOSE OF CALL

WHY THIS MATTERS
Consumers must understand the commercial purpose of the call and that the caller has a financial interest in the outcome.

Q2 — PURPOSE OF CALL

"Do you understand that the purpose of this call is to connect you with a financial adviser, and that we may receive a fee if you proceed with their services?"

YES — Yes, I understand the purpose

NO — Explain clearly, then re-ask. If still unclear, end call.

Record all responses. A clear YES is required before proceeding to the next question.

3

VOLUNTARY CONTACT

WHY THIS MATTERS
Clicks on vague ads do not constitute informed consent to a sales call. The consumer must have actively and knowingly initiated this contact.

Q3 — VOLUNTARY CONTACT

"Did you take an action, such as clicking an ad, filling in a form, or making an enquiry, that you understood would result in someone calling you today?"

YES — Yes, I made an enquiry

NO — Do not proceed. This is an unsolicited call under the hawking rules.

Record all responses. A clear YES is required before proceeding to the next question.

4

FREE CHOICE

WHY THIS MATTERS
High-pressure tactics are a key harm vector. The caller must affirmatively confirm the consumer feels free to disengage.

Q4 — FREE CHOICE

"Are you choosing to take this call freely? No one is pressuring you to stay on the line, and you can end this call at any time with no penalty or consequence?"

YES — Yes, I am happy to continue

NO — Remind them of their right to end the call. Do not apply pressure.

Record all responses. A clear YES is required before proceeding to the next question.

Q5 — SUPERANNUATION CONTEXT

5

SUPERANNUATION CONTEXT

WHY THIS MATTERS
Superannuation is typically a person's largest asset. Switching decisions are often irreversible. Informed consent requires the consumer to appreciate the stakes.

"Are you aware that any advice about switching your superannuation can have significant, long-term financial consequences that may be irreversible?"

YES — Yes, I understand the stakes

NO — Provide the standard superannuation risk disclosure before continuing.

Record all responses. A clear YES is required before proceeding to the next question.

6

DATA COLLECTION

WHY THIS MATTERS
Data collection must be disclosed at the point of collection. Consumers have a right to know what information is being held about them.

Q6 — DATA COLLECTION

"Do you understand that your personal information, including your name, contact details, and superannuation enquiry, will be recorded by us today?"

YES — Yes, I consent to my data being recorded

NO — Do not record personal information. End call if consumer declines.

Record all responses. A clear YES is required before proceeding to the next question.

7

DATA SHARING

WHY THIS MATTERS
Data must be tied to a specific adviser or licensee. It cannot be reused, on-sold, or passed through multiple sales pipelines without fresh, active consent.

Q7 — DATA SHARING

"Do you consent to your personal information being passed to [Named Adviser / Named Licensee] for the purpose of providing financial advice, and only to them?"

YES — Yes, I consent to sharing with [named party]

NO — Do not share data. End call or re-obtain specific consent.

Record all responses. A clear YES is required before proceeding to the next question.

8

DATA RIGHTS

WHY THIS MATTERS
Consumers must be informed of their data rights under the Privacy Act. This is not optional disclosure — it is a legal obligation.

Q8 — DATA RIGHTS

"Are you aware that you have the right to access, correct, or request deletion of the personal information we hold about you at any time?"

YES — Yes, I understand my rights

NO — Provide the privacy rights disclosure document before proceeding.

Record all responses. A clear YES is required before proceeding to the next question.

9

NO FURTHER SHARING

WHY THIS MATTERS
Lead data recycling — selling consumer data to multiple pipelines — is a key harm mechanism. This commitment must be made explicitly and honoured.

Q9 — NO FURTHER SHARING

"Do you understand that your information will not be sold to any other third party, and that you will not receive unsolicited calls from other companies as a result of this call?"

YES — Yes, I understand the limits on sharing

NO — Confirm the data restriction policy to the consumer before continuing.

Record all responses. A clear YES is required before proceeding to the next question.

10

FINAL CONFIRMATION

WHY THIS MATTERS
A final summary confirmation consolidates all prior consent. This creates a clear record that the consumer was informed and willing at the point of handover.

Q10 — FINAL CONFIRMATION

"To confirm: you understand who is calling, why they are calling, how your data will be used, and you are choosing freely to continue. Is that correct?"

YES — Yes — confirmed and willing to proceed

NO — Do not hand over to adviser. Re-run relevant questions or end call.

Record all responses. A clear YES is required before proceeding to the next question.

CONSENT CONFIRMED?

You Are Cleared to Proceed.

- Caller identity and commercial purpose disclosed
- Contact was consumer-initiated and voluntary
- Superannuation risk acknowledged
- Data collection and specific sharing consented to
- Data rights explained - no further on-selling confirmed
- Final summary confirmation received

Retain all records for a minimum of 7 years. Director liability applies for data retention failures.