Fact checks – 17 October 2025

Proposed answers and clarifications are in red

Document 1 – 28 September email of AFCA-ASIC Investor meeting (link)

From: s 22 s <s 22 s 22 asic.gov.au>
Sent: Sunday, 28 September 2025 10:20 PM
To: s 22 s 22 <s 22 s 22 asic.gov.au>;s 22 s 22 <s 22 s 22 asic.gov.au>;s 22 s 22 <s 22 s 22 asic.gov.au>;s 22 s 22 <s 22 s 22 asic.gov.au>;s 22 s 22 <s 22 s 22 asic.gov.au>
Cc: s 22 s 22 <s 22 s 22 asic.gov.au>;s 22 s 22 <s 22 s 22 asic.gov.au>;s 22 s 22 <s 22 s 22 asic.gov.au>;s 22 s 22 <s 22 s 22 asic.gov.au>;s 22 s 22 <s 22 s 22 asic.gov.au>
Subject: Facebook page re ASIC/AFCA meeting [SEC=OFFICIAL]

AFCA Meeting Update – Summary for Members:

(Please see attached PDF with my prepared questions and responses from AFCA, these were prepared pre the Macquarie announcement)

Firstly, I would like to thank s 22 s 22 the Executive Director of Enforcement & Compliance for ASIC, for arranging this meeting to address concerns I had raised approximately a week earlier. In attendance also from ASIC was s 22 s 22 Senior Executive Leader – Financial Advisers and Investment Management. Appreciation goes out to the 3 Senior members of AFCA who made a specific flight to Sydney to meet with us.

s 22 s 22 Deputy Chief Ombudsman, s 22 s 22 Head of Legal and s 22 s 22 Lead Ombudsman, Investments & Advice.

Thursday's meeting with AFCA (& ASIC) was long and often frustrating. While some progress was shared, including confirmation that complaints are now being processed, in particular that UGC and NextGen cases have been reinstated, many answers were long-winded, leaving little time for several key questions that remain unanswered.

AFCA admitted early mistakes in how complaints were handled and confirmed that some previously closed cases may be reopened, depending on, whether they have additional rights over and above the remediation. AFCA confirmed they would look into it. They also stressed that their service is free and that people do not need lawyers to lodge a complaint.

Despite these commitments, there is still no clear, fast pathway to compensation for most victims, and trustee accountability remains a major unresolved issue.

My top 4 takeaways from the meeting indicate positive steps forward.

1. Macquarie Compensation Deal:
Victims on Macquarie's platform will receive 100% of their net capital invested (70% inside super, 30% outside) a significant and immediate recovery, without waiving any legal rights OR future claims for loss in growth via AFCA (But for.)

2. AFCA Progressing Complaints:
AFCA confirmed it is not waiting for court cases to finish and has reinstated UGC and NextGen complaints, issued lead decisions, and resumed case assessments, a shift from early delays. Time will tell. I believe there are still unanswered questions around why complaints against Interprac have not been processed.

3. Focus on Vulnerable Victims:
AFCA agreed to fast-track complaints for retirees, people facing hardship, illness, or homelessness, recognising the human impact and need for urgent relief. If you are in a vulnerable position you do need to let AFCA know as soon as possible- in writing. I would be very pleased to hear from any victims with Interprac who are in a vulnerable position, as I believe this still needs to be monitored.

4. Improved Communication & Support:
AFCA is committed to clearer communication (FAQs, document checklists, dedicated contacts), a public webinar (23 Oct), and stronger messaging that its service is free, aiming to reduce confusion and exploitation by lawyers. I have raised concerns directly with ASIC in regards to two law firms that appear to be targeting FGMF victims and charging up to $20k on a no-win-no-fee basis for AFCA Complaints – Not advising customers this is a free service and does not require a lawyer, as AFCA staff are trained to assist.

Areas that left me unsatisfied

1. No Unified Compensation Pathway:
ASIC and AFCA operate in separate silos; ASIC focuses on oversight, enforcement and deterrence, while AFCA handles individual client disputes. There is no coordinated government-led scheme for broad restitution, other than AFCA and the CSLR. In saying this, I do believe 100% both agencies genuinely want to see a resolution to this that falls in the favour of the victims; however, I can't help but feel they are restrained by unspoken politics and regulatory constraints. Raising the question as to why Jim Chambers has not updated the Statement of Expectations since 2021.

> ASIC is Australia's financial services regulator, responsible for oversight, enforcement and deterrence, through the administration of the laws that confer functions and powers on it. AFCA is an independent external dispute resolution scheme that handles individual consumer complaints. While ASIC is responsible for overseeing the effective operation of the dispute resolution system, which includes setting the standards and requirements for financial firms' internal dispute resolution processes and providing oversight of AFCA, ASIC does not intervene in AFCA's decision-making on individual complaints. ASIC has no role in AFCA's internal processes.
>
> While shaped by legislative constraints, ASIC and AFCA do still have multiple channels of coordination. AFCA provides ASIC with reports on systemic issues and complaint trends. ASIC uses this intelligence to inform enforcement priorities and policy advocacy.
>
> The Government periodically issues ASIC with a Statement of Expectations, outlining its expectations about ASIC's role and its responsibilities, issues of transparency, accountability, and operational matters. The latest Statement of Expectations was issued in August 2021. ASIC's Statement of Intent, published in August 2021, outlined how ASIC will achieve its objectives, carry out its functions, and exercise its powers in

discharging its responsibilities. Statements of Expectations have been issued on ASIC by the Government in 2007, 2014, 2018 and 2021.

2. Trustee Accountability Unanswered:
AFCA did not provide a clear plan for holding Equity Trustees, Netwealth, or Diversa accountable for their ongoing fiduciary duties. AFCA stated it was still early in the process, leaving a major gap in victim redress.

3. Early Complaint Handling Failures:
Many trustee complaints were initially dismissed or closed due to jurisdictional issues, and victims were often redirected, misinformed, or delayed, causing significant frustration and loss of trust. A firm commitment is still required that these cases will be reopened, as you have 1 opportunity to submit a complaint against an entity (unless there is significant new evidence).

4. Long Timelines Still Likely:
AFCA admitted complaints could still take many months or years to resolve due to volume, legal complexity, and jurisdictional overlaps, risking a 2–5 year wait for many victims. I strongly do not believe this is excusable and question if these delays are strategic, and if they meet AFCA's own standards of fairness.

5. No Broader Government Response:
Unlike disaster responses (e.g., bushfires), there is no coordinated government action to support affected families, no emergency payments, welfare interventions, or cross-agency assistance, despite the scale of financial devastation. These are the points I also raised in our meeting with Mr. s 22 s 22

Document 2 – "Questions for AFCA & ASIC.pdf" attachment to Document 1 (link)

s Note: This document is set out in three sections; Questions for AFCA, Joint Questions, and Questions for ASIC. The document suggests that the questions for ASIC were not put to ASIC in time, and no answers are included. Additionally, ASIC's answers to these questions were drafted in email form for s 22 s 22 to respond to s 22 s 22

Joint Questions

1. Why do AFCA and ASIC appear to be operating in silos, ASIC prosecuting, AFCA stalling, leaving victims with no timely path to redress?
    a. Different mandates + legal limits: ASIC is pursuing enforcement/deterrence and court-set standards; AFCA can't give individual advice and, early on, paused some matters due to jurisdiction/volume/complexity and double-recovery risks. AFCA says it's now progressing cases (lead decisions, UGC/NextGen reinstated) and won't wait for litigation to complete.
2. What formal coordination exists between ASIC and AFCA to ensure victims are not trapped in this "no-man's land"? ,
    a. This was not properly addressed, however. working-level coordination and information-sharing: AFCA appears to align its approach with ASIC

ASIC FOI 2627-007

Summary of Comments on 20251017 - Fact checks on investor group file notes

Page: 3

Number: 1 Author: s 22 Date: 17/10/2025 4:18:00 PM +11'00'
I can't find any public comms about when we expect an updated Statement of Expectations, so I suggest we leave it at that.

Number: 2 Author: s 22 Date: 17/10/2025 4:19:00 PM +11'00'
Rest of Doc 1 is AFCA-specific

ASIC FOI 2627-007

developments (e.g., Macquarie resolution), to avoid double compensation, again appearing to contradict that they are not holding up processing claims based on legal proceedings.

3. What is the clear pathway today for an investor in First Guardian/Shield to actually achieve compensation or restoration of superannuation?
    a. If on Macquarie platform (Shield): receive 100% net capital invested (70% in-super swap + 30% outside super), rights preserved.
    b. Lodge/maintain AFCA complaints—especially against advisers—using AFCA's doc checklist; ask for expedited if vulnerable.
    c. Seek records from advisers/liquidators, file proofs of debt.
    d. Where advisers are insolvent, pursue CSLR after an AFCA determination.
    e. Consider (case-by-case) claims for lost insurance, non-financial loss, and professional costs not covered by Macquarie.
    f. AFCA explained that early delays were caused by the complexity and volume of complaints, the need to clarify jurisdictional boundaries, and uncertainty around ongoing investigations, court actions, and outcomes such as the Macquarie resolution. (contradicting that they were not waiting on ASIC to process claims) They also noted they were initially cautious to avoid double compensation and to understand how different parties, advisers, trustees, and platforms might be held responsible. Now that key issues are clearer, AFCA says it is actively progressing cases. I believe we should have more transparency on the progress of these cases.
    g. AFCA did not provide a clear or specific timeline for processing complaints when I asked. They said it would depend on the nature and complexity of each case, the amount of information available, and which "bucket" the complaint falls into (e.g. UGC, Interprac, Trustees). They promised to gather and share more accurate timeframe information, potentially on their website, but no concrete dates or estimates were given during the meeting.
    h. In general, complaints are being processed in the order they were received, following their usual procedure.) If what we are told is to be accurate, then we should expect to see complaints other than UGC being processed.
4. Who is accountable for ensuring that the compensation pathway is not blocked for the next 2- 5 years?
    a. Due to a lack of time, this question was not covered
5. This is an unmitigated financial disaster. In 2019-2020, the Black Summer bushfires destroyed 3094 homes, and in that case, Centrelink and other government departments were marshalled to assist stricken families. The number of families directly impacted is nearly 4 times higher, yet there has been no coordinated activity between any government department to identify families in immediate distress and provide support. WHY?
    a. Outside ASIC/AFCA's remit, Treasury/government would need to legislate any compensation/relief framework (ASIC cited ACBF/Trio as precedents). The agencies present could not commit to cross-department relief, making this a political decision, not a regulatory one.

ASIC FOI 2627-007

Page: 4

Number: 1 Author: s 22 Date: 21/10/2025 11:15:00 AM +11'00'
Unsure if this is worth addressing. I think we've said enough publicly about our enforcement-led approach to remediation.

Document 3 – Investor Group file note from 4 September meeting with ASIC (link)

This PDF is not OCR'd so I've screenshotted a couple of excerpts that I felt could justify some response.

Questions regarding Oversight & Accountability: How ASIC answered

1) Why did ASIC allow First Guardian / Falcon to operate despite red flags (governance, liquidity, opacity)?
ASIC's answer (in summary):

- The law gives ASIC only a limited gate at registration: MIS registration is a 14-day, box-ticking process; ASIC is required to register schemes that meet formal criteria and can't run ex-ante risk assessments.
- Early intelligence (2020–2023) focused on selling/mis-selling practices (lead generators, cold-calling, advice/licensee issues), not on misuse/misappropriation inside the fund. The latter emerged later through search warrants and evidence gathering.
  What that means: They're saying the legal framework hamstrung early intervention at the scheme level, and the "fund misconduct" evidence arrived late.
  What's missing: No explanation of why visible governance conflicts (e.g., RE/manager overlap) didn't trigger earlier supervisory escalation.

When was RE/manager overlap discovered, and what, if anything, did that discovery trigger?

s 47C(1)(a)
s 47C(1)(a) s 22 s 22 noted: Those sort of arrangements are wide spread in the funds management industry. There is no requirement under the Act for an RE to tell ASIC who is involved in the operation of a registered scheme other than the responsible entity and auditors.

Suggested answer:

The MIS registration process is a legislatively prescribed, time-limited procedure—typically completed within 14 days—where ASIC is required to register a scheme if it satisfies formal statutory criteria. Importantly, the law does not empower ASIC to conduct risk assessments or to refuse registration based on perceived governance risks, provided the application meets the prescribed requirements.

Under the Corporations Act, there is no obligation for registered entities to disclose to ASIC the individuals involved in the operation of a registered scheme beyond the responsible entity and its appointed auditors. This governance structure is a widespread feature of the industry.

In the case of First Guardian / Falcon, early intelligence received between 2020 and 2023 primarily related to selling and mis-selling practices, such as the use of lead generators, cold-calling, and advice/licensee issues. These matters fell outside the operational conduct of the fund itself. Allegations of misuse or misappropriation of funds within the scheme only emerged later, following the execution of search warrants and the collection of further evidence. As such, ASIC's ability to escalate supervisory action earlier was constrained by both the legislative framework and the timing and nature of the intelligence available.

3) Why intervene only after the collapse rather than proactively?
ASIC's answer (in summary):

- Acting too early can spark a run on a fund; they must balance harm.
- They intervened (freezes/receivers/liquidators) once evidence showed inflated valuations/depletion of assets and that continued operation would harm investors more.
  What that means: Their threshold for heavy intervention is hard evidence of fund harm, not just mis-selling signals.
  What's missing: Any measurable intervention thresholds (e.g., triggers, KRIs) that could be shared publicly.

ASIC
Australian Securities & Investments Commission

As noted in the meeting, ASIC's approach to intervention is to balance the risk of investor harm against the risk of precipitating it. Acting too early can trigger unintended consequences such as a run on a fund, which may itself cause the very harm the intervention seeks to prevent.

While it may seem desirable to publish measurable intervention thresholds, doing so can create perverse incentives. Any such thresholds would likely become de facto benchmarks that responsible entities and fund operators manage toward, not to improve governance or investor outcomes, but to remain just below the radar of regulatory scrutiny. This could result in risk being obscured rather than addressed, undermining the very purpose of early warning indicators.

ASIC's more significant intervention powers are generally triggered by evidence of actual or imminent harm—such as inflated valuations, asset depletion, or breaches of fiduciary duty—rather than by early-stage governance concerns alone.

Advice Policy Summit 2026 as of 09.01			
First Name	Last Name	Job Title	Organisation
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Save Our Super
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Advice Policy Summit 2026 as of 19.02			
First Name	Last Name	Job Title	Organisation
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From: s 22 s 22
To: s 22 s 22
Cc: s 22 s 22 s s 22 s 22 s s s 22
Subject: ASIC/AFCA – Meeting with investor representatives - Invites Sent [SEC=OFFICIAL:Sensitive]
Date: Tuesday, 9 December 2025 12:35:18 PM
Attachments: ASICAFCA Meeting with investor representatives SECOFFICIAL.msg
image001.gif
image002.jpg
ASICAFCA Meeting with investor representatives SECOFFICIAL.msg

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Hi s 22

As requested, we have sent meeting invitations for 15/12/2025 via First Guardian mailbox. As per our discussion we have sent two separate invites: one to ASIC/AFCA staff (have included s 22 s 22 who will be escorting s 22 and second to consumer representatives. Please see copies attached.

Kind Regards,

s 22 s 22
Lawyer
Enforcement & Compliance
Australian Securities and Investments Commission
Level 7, 120 Collins Street, Melbourne, 3000
Tel: s 22 | Mob: s 22
s 22 s 22 asic.gov.au

ASIC logo

ASIC acknowledges the Traditional Owners of the lands and waters on which we live and work. We pay respect to Elders past and present as the custodians of the world's oldest continuing cultures.

From: First Guardian Queries
To: s 22 afca.org.au; s 22 s 22 afca.org.au; s 22 afca.org.au; s s 22 s s 22 s s 22 s s 22 s s 22
Subject: ASIC/AFCA – Meeting with investor representatives [SEC=OFFICIAL]
Attachments: image001.gif
image002.jpg

Good afternoon,

We confirm meeting at 2.30pm AEDT on Monday, 15 December 2025 at the following ASIC office location:

ASIC's Sydney Office

Room 5.004

Level 5

100 Market Street

Sydney 2000

Please note we have sent a separate meeting invitation to the following 'Save Our Super' consumer group representatives:

s 22 s

s s 22 ; and

s s 22 (attending virtually from ASIC Perth office (11.30am AWST)).

Kind Regards,

Australian Securities and Investments Commission

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From: First Guardian Queries
To: s 22 s - Save Our Super; info@fincomplaints.com; s 22 hotmail.com; s 22
Subject: ASIC/AFCA – Meeting with investor representatives [SEC=OFFICIAL]
Attachments: image001.gif
image002.jpg

Dear s 22 s and s

We confirm our meeting at 2.30pm AEDT (11.30am AWST) on Monday, 15 December 2025, at the following ASIC office locations:

ASIC's Sydney Office

Level 5

100 Market Street

Sydney 2000

ASIC's Perth Office

Level 1

11 Mounts Bay Road

Perth 6000

We look forward to meeting with you.

Kind Regards,

Australian Securities and Investments Commission

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From: First Guardian Queries
To: s 22 s - Save Our Super; info@fincomplaints.com; 's 22 hotmail.com"; s 22
Subject: ASIC/AFCA – Meeting with investor representatives [SEC=OFFICIAL]
Attachments: image001.gif
image002.jpg
Agenda - ASIC-AFCA - Meeting with Investor group representatives.pdf

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Good morning,

Please see attached agenda for our meeting today.

Kind Regards,

Australian Securities and Investments Commission

ASIC acknowledges the Traditional Owners of the lands and waters on which we live and work. We pay respect to Elders past and present as the custodians of the world's oldest continuing cultures.

Dear s 22 s and s

We confirm our meeting at 2.30pm AEDT (11.30am AWST) on Monday, 15 December 2025, at the following ASIC office locations:

ASIC's Sydney Office

Level 5

100 Market Street

Sydney 2000

ASIC's Perth Office

Level 1

11 Mounts Bay Road

Perth 6000

We look forward to meeting with you.

Kind Regards,

Australian Securities and Investments Commission

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ASIC FOI 2627-007

ASIC
Australian Securities & Investments Commission

Agenda

ASIC/AFCA – Meeting with Investor Group Representatives

Monday 15 December 2025, 2.30pm – 3.30pm, AEDT

In-person: ASIC Sydney office / ASIC Melbourne office / ASIC Perth office

Item
1. Introductions
2. Update from ASIC
3. Update from AFCA
4. Update and questions from Investor Representatives
5. Discussion about ASIC and AFCA website information
6. Close

From: s 22 s 22
To: s s 22 s s 22 s s 22 s s 22
Cc: s 22 s s 22 s 22 s s 22 s s 22 s s 22 s 22 s
Subject: ASIC/AFCA/Consumer Group Rep Meeting - 15/12/25 File Note [SEC=OFFICIAL:Sensitive]
Date: Thursday, 18 December 2025 3:26:12 PM
Attachments: image002.gif
image003.jpg
image004.png
20251215 ASIC Meeting with AFCA and SOS Consumer Group.docx

Hi All,

Please see attached file note from Monday's meeting with AFCA and the SOS consumer group representatives.

I will keep an eye out to see if the group publish their notes on their SOS website but have not yet seen any posts to cross reference.

Thanks again for allowing me to sit in on the meeting. Feel free to reach out if I have missed anything or if you have any questions.

Kind Regards,

s 22 s 22
Lawyer
Enforcement & Compliance
Australian Securities and Investments Commission
Level 7, 120 Collins Street, Melbourne, 3000
Tel: s 22 | Mob: s 22
s 22 s 22 asic.gov.au

ASIC logo

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From: s 22 s 22
Sent: Monday, 15 December 2025 8:11 AM
To: s 22 s 22 ; s 22 s 22 ; s 22 s 22 ; s 22 s 22
Cc: s 22 s ; s 22 s 22 ; s 22 s 22 ; s 22 s 22 ; s 22 s 22
Subject: briefing for today's investor group meeting [SEC=OFFICIAL:Sensitive]

Hi all

A briefing for this afternoon's investor meeting is here: Briefing for Investor meeting.docx.

Thanks to all who have been working on this the last few days.

Kind regards,

s 22 s 22 (he/him)
Senior Executive Leader – Fintech
Markets Group
Australian Securities and Investments Commission
Level 5, 100 Market Street, Sydney NSW 2000
Tel: s 22 | Mob: s 22

s 22 s 22 asic.gov.au
EA: s 22 s 22 | Tel: s 22 s 22 s 22 asic.gov.au
(I work flexible hours and at different times of the day - I do not expect that you will respond to this email outside your regular working hours)

File Note

RE:	ASIC, AFCA and SOS Consumer Rep Meeting
FILE REF:	CAS-145719-X9Y3F0 – Falcon Capital/First Guardian CAS-139035-Y6N4F3 – Keystone Asset Management/Shield
DATE:	15/12/2025
Time:	14.30pm (AEDT) (duration 1.5 hours)

ASIC Attendees:
s 22 s 22 s 22 s 22 s 22 s 22 (Sydney) and s 22 s 22 (Melbourne).

AFCA Attendees:
s 22 s 22 (Sydney), s 22 s 22 and s 22 s 22 (Melbourne)

SOS Consumer Group Rep Attendees:
s 22 s 22 s 22 s 22 (Sydney) and s 22 s 22 (Perth)

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1. Introductions

- Meeting attendees introduced themselves.

2. Update from ASIC

2.1 Recent enforcement action

[s 22 - ASIC]

- ASIC has now commenced 11 proceedings in the Federal Court against 19 defendants in relation to Shield and First Guardian.
- Since we last spoke to this group in September, ASIC has:
  - **Macquarie:** Commenced proceedings against Macquarie and accepted a court enforceable undertaking from Macquarie under which Macquarie has now paid its members 100% of the amounts they invested in Shield less any amounts withdrawn;
  - **Equity Trustees:** amended its court proceedings against Equity Trustees to seek compensation for members for losses resulting from the alleged failures by Equity Trustees in making the Shield Master Fund available on its superannuation platforms;
  - **MWL Financial Services, its directors and Imperial:** sought leave to commence civil penalty proceedings against MWL Financial Services as they are in liquidation, MWL's former director and Imperial Capital over alleged Shield advice failures;
  - **Interprac:** commenced civil penalty proceedings against Interprac for allegedly failing to ensure its former authorised representatives Venture Egg and Rhys Reilly Pty Ltd complied with the best interests obligations and for failing to have adequate risk management systems and orders to restrain Interprac from carrying on a financial services business;
  - **Diversa Trustees:** commenced civil penalty proceedings against Diversa for failing to conduct adequate due diligence before allowing its members to invest in First Guardian and failing to conduct adequate ongoing monitoring. Further, ASIC

alleges that Diversa failed to enforce a 50% holding limit it imposed for First Guardian and failed to have systems and processes in place to ensure that there was compliance with that holding limit. ASIC has sought compensation for members for losses resulting from these failures;

- **SQM Research** commenced civil penalty proceedings against SQM Research alleging misleading reports and that its processes fell short of expected standards in relation to Shield;
- s 22 s 22 secured interim orders restraining s 22 s 22 from operating within the financial services industry. ASIC was also successful in obtaining orders for the appointment of a receiver to identify all assets and liabilities of Mr s 22 and provide a report. A provisional liquidator has also been appointed to Venture Egg Financial Services Pty Ltd and United Financial Advice Pty Ltd, being entities through which Mr s 22 and other financial advisers provided financial advice to clients ; and
- **Advisers:** banned more UGC and MWL advisers and individuals.

- Our investigations in relation to Netwealth and Equity Trustees in relation to First Guardian are ongoing.

2.2 Questions in response to update

s 22 **– SOS Group]** *In respect of Netwealth and Equity Trustees, is ASIC only undertaking investigation or will there also be enforcement action and compensation?*

s 22 **- ASIC]** Both matters are still in the investigation phase. ASIC conducts investigations with view to take regulatory action where appropriate but dependent on evidence obtained during the investigations.

s 22 **- ASIC]** Given exceptional circumstances in these fund collapses, ASIC will identify and pursue, where appropriate, compensation for investors.

[s 22 **– SOS Group**] *With respect to Equity Trustee action regarding Shield (in which proceedings were amended to seek orders for compensation) will the company's insurance policy be used to cover legal expenses or will any insurance coverage be reserved for victims' compensation if awarded by court?*

[s 22 **– ASIC]** What cover an entity has will be dependent on the terms of the policy itself.

2.3 Law reform

[s 22 **- ASIC]**

- ASIC has been working closely with the Minister and Government on potential law reforms to respond to the Shield/First Guardian collapse.
- We have called for reforms on lead generators, super switching, trustee duties and the MIS regime.
- The minister announced this week ongoing work on all of these, and we will continue to support Treasury with this work. A consultation paper is expected early in the new year.
- ASIC is in regular contact with consumers. We update our website regularly and as part of the Super Campaign, we are looking to issue flyers to investors before Christmas.

3. Update from AFCA

[s 22 **– AFCA]**

- Since the last meeting in September 2025, AFCA has also attended a separate meeting with the SOS consumer group representatives which took place in November 2025. AFCA also held a webinar for investors in October 2025.
- AFCA currently working through range of Shield and First Guardian related complaints with a view to assess liability and award compensation.
- AFCA has handed down lead decision in MWL financial advice complaint just last week as well as recent lead decision on FSGA.[1]
- AFCA working on handing down lead decision on Interprac as soon as possible.
- AFCA will contact all complainants in writing before Christmas to provide updates.
- AFCA aware, as raised by SOS consumer group, that complainants would like to be provided with regular updates. In response to this, AFCA will commence weekly updates on their Shield and First Guardian websites and are also updating pages to include videos which will assist to make the website more interactive for consumers.
- At present, AFCA have received 1,830 complaints.

4. Questions from SOS consumer group representatives

Q.1 – Re-registration of APT Strategies

I am now aware of investors who invested in managed funds that were under the umbrella of a company called the Australian Fiduciaries Limited. What I understand happened is similar to the First Guardian/Shield matters, where a representative of APT Strategies cold-called investors, recommended SMSF's and then recommended people invest in managed funds within Australian Fiduciaries Limited. APT Strategies AFCA Membership ceased in May 2025; however, Australian Fiduciaries didn't go into liquidation until 4 July 2025. There is a strong concern a similar situation now faces investors in Australian Fiduciaries, which was going to face UGC First Guardian investors. They have a valid complaint to pursue, but the date they could have been aware of an AFCA claim only arose after APT Strategies ceased to be a member. ***Can you please provide an update on this, and will you consider re-opening AFCA Complaints as was done with UGC? Can the membership of APT Strategies be reactivated?***

[s 22 – SOS Group] stated that this was a question she received from s 22 at Financial Dispute Legal (FD Legal).

[s 22 - ASIC] As APT Strategy has been deregistered, it has no legal identity. APT deregistered in response to liquidator lodging the relevant form. AFCA ceased their membership in 2025. Once the form is received, ASIC must deregister the company which it did in January 2025.

For APT Strategy to be able to be reactivated as a member of AFCA, its registration as a company would first need to be reinstated. This can be done by an 'aggrieved person' applying to the Court for reinstatement. Application to court required to be made by at least one aggrieved person, and court is proper mechanism for reinstatement. AFCA cannot consider reactivation of membership until this process occurs and company is reinstated. Court has extremely narrow remit.

[s 22 – AFCA] Confirmed if company was reinstated by court, it would be a matter for AFCA board to determine whether membership would be reactivated. AFCA stated it would be likely that membership would be reinstated in these circumstances.

[s 22 – SOS Group] Stated other financial firms have had their membership extended or reinstated by AFCA.

[1] Not yet able to locate on AFCA\'s published decision webpage, will monitor publication of determinations.

[s 22 – ASIC] Explained this relates to licensees in circumstances where ASIC has cancelled their AFSL as opposed to deregistration of company.[2] The licensee companies still exist as a legal entity which is not the case with APT Strategy.

[s 22 – SOS Group] Understands that some individuals are looking at making an application to the court as an aggrieved person. Likely to be costly.

[s 22 ASIC] ASIC happy to engage with FD Legal if that would assist s 22 not having to address their questions directly. Also noted that if any consumers were experiencing financial hardship ASIC could recommend free legal help options such as community legal centres/pro bono referral options.

Q.2 – MWL Insurer

There is an MWL investor who has been successful with their AFCA case against MWL. The liquidators for MWL have advised that the insurer has been notified of the investor's claim prior to liquidation, but the lawyers have yet to hear from a representative of the insurer. I understand that AFCA cannot enforce the Determination against MWL to force payment; however, the concern is that without active steps being taken, the insurer may try to avoid indemnifying MWL for the investor (and other investors') claims. I note ASIC's condition when cancelling MWL's AFSL required professional indemnity insurance to be maintained until 25 August 2026. I assume a policy should respond, rather than placing additional pressure on the CSLR. ***Given that non-payment of the Determination will be reported to ASIC, what steps can be taken to engage with the insurer?***

[s 22 – SOS Group] Confirmed this was also a question that was raised by FD Legal.

[s 22 - ASIC] Is the SOS group representatives aware of whether FD Legal have engaged with the liquidators? Have they been able to find out who the insurance company is?

[s 22 – SOS Group] No, they have been unable to obtain the details of the insurer.

[s 22 – ASIC] PI insurance generally sits with the licensee as the insured party. Given MWL in liquidation, are liquidators not disclosing to FD Legal on behalf of the investors, is that right?

[s 22 – SOS Group] Yes. Would the liquidators use the PI for legal fees?

[s 22 - ASIC] It will depend on the policy itself.

[s 22 and s 22 AFCA] In terms of time frames for compensation payments, re the MWL decision they will have 30 days to pay the determination.

[s 22 - ASIC] This would rest with the liquidator. If struggling to obtain information or issues with liquidator conduct, can let ASIC know.

Q.3 – InterPrac Cases Over $150k

Will ASIC support AFCA prioritising higher-value InterPrac complaints, particularly those over $150,000, while InterPrac remains solvent, to ensure older victims do not miss out on full compensation due to solvency erosion over time? *This will assist victims whose compensation*

[2] s from AFCA said after the meeting that where a licensee's membership is cancelled, they will not cancel the membership or are happy to extend complaint/membership deadlines of firms involved in First Guardian and Shield and asked s to pass this on.

depends on InterPrac staying solvent. Aligns with fairness, urgency, and risk-management principles. This should align with Q10. Ensuring no one is disadvantaged.

and

Q.4 – Age and Impact-Based Prioritisation

Given that higher-value losses typically correlate with older Australians who have less time to recover financially, will ASIC advise AFCA and Treasury on creating an age- and impact-based prioritisation pathway so these InterPrac cases are resolved before solvency becomes a barrier? *I believe this recognises financial vulnerability and age-related urgency and helps prevent catastrophic outcomes if InterPrac's solvency deteriorates. This also frees up resources on government agencies, along with Centerlink payments that otherwise would not be required.*

[s 22 **– ASIC]** ASIC should not get involved or intervene in AFCA complaints.

[s 22 **– AFCA]** Interprac are solvent which means that AFCA does not know what Interprac will do until the first decision is issued.

[s 22 **– AFCA]** We don't know whether Interprac has claimed indemnity as yet. AFCA needs to allow normal EDR steps to occur and provide Interprac opportunity to respond given they ate solvent and engaging in the AFCA process. The purpose behind AFCA issuing lead decisions means that if a determination was in favour of complainant, that should encourage Interprac to engage directly with investors and resolve complaints on a similar basis without the need for future AFCA involvement.

[s 22 **– AFCA]** Regarding allocation being pegged to monetary value of complaint, AFCA has indeed spent time prioritising and exploring best methods to deal with complaints. s 22 asked AFCA at the last meeting to prioritise based on vulnerability such as age, illness and other hardship categories. While AFCA can look at the amounts claimed, it doesn't necessarily always equate to amount of compensation awarded.

[s 22 **– SOS Group]** How does AFCA determine who is vulnerable?

[s 22 **– AFCA]** It must be done on a case-by-case basis which is identified by the facts of the complaint.

[s 22 **– AFCA]** Taken on board SOS Group feedback and are prioritising vulnerable consumers and remainder chronologically. A complainant needs to notify AFCA of any hardship or vulnerability that would warrant their complaint being prioritised.

Q.5 – ASIC Engagement with InterPrac for Cases >$150k

Will ASIC engage directly with InterPrac to ensure full cooperation, rapid document production, and non-obstruction in complaints over $150k, so AFCA can issue determinations while the licensee remains capable of paying? *Compel cooperation and enforce timeliness. Prevents strategic delay by licensees. Ensures victims receive compensation before a potential insolvency event shifts cases to CSLR.*

[s 22 **– ASIC]** ASIC role is such that it can reinforce and apply pressure on entities and sector to adhere to laws.

[s 22 **– SOS Group]** What about compelling production of SOA's as many investors have been unable to obtain these documents. The liquidators said they don't have the funding to obtain and distribute.

[s 22 **– ASIC]** What is the experience of investors who have tried to obtain directly?

[s 22 **– SOS Group]** They are being ignored.

[s 22 **– AFCA]** AFCA are liaising with liquidators to attempt to obtain copies of documents. They know that MWL are attempting to produce documents and UGC appear to have no funds available to do so.

[s 22 **– AFCA]** AFCA have leveraged their power in both First Guardian and Shield in attempt to assist complainants obtain the relevant documentation. If a financial firm such as Interprac does not provide documentation. They may well be in breach of their IDR/EDR obligations. If financial firms are not adhering to document production this would fall within the ambit of regulatory issues which AFCA can report.

Q.6 – Enforcing Timely Cooperation from Regulated Entities

What steps will ASIC take to enforce timely cooperation from regulated entities, especially InterPrac and trustees, so that jurisdictional challenges or delays by one party do not block thousands of AFCA complaints? *Eg, intervene, issue notices, or direct compliance-related action. This would remove the biggest bottlenecks victims face.*

[s 22 **– ASIC]** ASIC are independent of AFCA. AFCA and members can see what action ASIC is taking which may assist to inform but it is not for ASIC to determine the application or intervene in AFCA's jurisdiction or application of their rules.

[s 22 **- SOS Group]** Trustee complaints don't appear to be considered by AFCA. ASIC is taking action against Trustees, would AFCA have to wait until court decisions are handed down before they will issue determinations? Eg: clearly issues with Diversa holding limits.

[s 22 **- ASIC]** AFCA don't have to wait on court rulings but may be looking to ASIC action and outcomes.

[s 22 **- AFCA]** AFCA focuses on compensation for consumers and ASIC focus is primarily enforcement action. AFCA won't wait on court decisions. AFCA does have regard to precedents and legal principles. Process is governed by AFCA rules. AFCA will also have regard for industry codes and practice as well previous relevant determinations.

[s 22 **– SOS Group]** *Have there been any determinations made against Trustees?*

[s 22 **- AFCA]** AFCA cannot look at management of a fund as a whole and there have not been any lead trustee decisions as yet.

[s 22 **AFCA]** AFCA jurisdiction over Trustee complaints is limited and AFCA is looking at how compensation may be awarded to consumers and tracking progress of these matters for example MIML case.

Q.7 – ASIC Providing Early Liability Position to AFCA

Will ASIC commit to providing AFCA with a formal position on liability issues as soon as its investigations allow, so AFCA can issue earlier determinations for victims, particularly those whose losses fall below the CSLR compensation cap? *AFCA slows down when liability questions are unclear. ASIC clarity = faster AFCA determinations = faster CSLR payouts.*

[s 22 **- AFCA]** AFCA are closely monitoring ASIC action and regular communication. AFCA not bound by ASIC's action and will still progress complaints. AFCA will soon begin regular weekly updates of complaints on their website so that consumers can be kept up to date and informed as soon as possible.

[s 22 **SOS Group]** When do we expect CSLR payments to be made?

[s 22 **- ASIC]** Minister has recommended special levy to top up CSLR. There is a also a review due to take place in 2025 into CSLR.

[s 22 **– SOS Group]** What about tax implications for consumers who receive compensation? Particularly MIML investors. Do they need to go to ATO to get a private ruling.

[s 22 **- ASIC]** Believe MIML has stated payments are ex gratia, not a form of income. MIML not intending on getting a private ruling but believe they obtained general tax advice. Consumers may wish to obtain their own advice as will be a case-by-case consideration.

Q.8 – Grouping or Batching Similar Complaints

Will ASIC formally recommend legislative or regulatory changes that allow AFCA to group or batch similar complaints arising from the same licensee, so AFCA is no longer forced to handle thousands of identical cases individually? *AFCA cannot create batch processing on its own. ASIC can advise Treasury and the Minister to urgently enable it. This is fully within ASIC's ability to advocate and trigger reform. Will you step up to ensure this is actioned?*

[s 22 **– AFCA]** Essentially asking for AFCA to consider complaints in a class action type manner which is not how AFCA is designed. AFCA's approach in issuing a lead decision is essentially a way of grouping/batching complaints because complaints with similar facts can ideally be followed or resolved by firms on same terms.

[s 22 **– AFCA]** AFCA does batch complaints. Looking at not only financial firm by also by business models.

[s 22 **– AFCA]** AFCA does also batch in the sense that 'like' complaints are dealt with by the same case officers for continuity.

Q.9 – Documentation: SOAs [note answered similar question at 5 above]

Will ASIC use its compulsory powers to require trustees, licensees and liquidators to immediately provide all missing client files, SOAs, and product records to AFCA so victims' complaints can progress without delay? *AFCA is stuck because documents are missing. ASIC can compel production under its powers. If ASIC acts, AFCA can process thousands of stalled cases. Will you step up to ensure this is actioned?*

[s 22 **- ASIC]** Answered this in Question 5, ASIC has the ability, in appropriate circumstances, to disclose information it has already obtained (pursuant to notices issued in ASIC investigations) under its compulsory powers. Any disclosure is discretionary and must meet statutory, confidentiality and public interest requirements. It is subject to the purpose limitations in s127 (e.g. disclosure for the performance of functions or to assist another agency); confidentiality and privilege constraints; procedural fairness and public interest considerations. ASIC can consider releasing relevant information already gathered pursuant to s 127 where it is appropriate to do so.

[s 22 **– SOS Group]** Noted she wanted to obtain complete list of advisors books so she can contact the consumers directly. Is this something ASIC would provide? She would like to contact investors herself.

[s 22 – **ASIC]** No, would not be something ASIC could likely disclose.

[s 22 – **SOS Group]** Has reached out to s 22 s 22 directly and others to try and obtain contact details of investors as she is concerned that there are only 1,800 AFCA complaints and not all investors have joined the consumer facebook group so likely unaware.[3] She said she has spoken with Spotlight to do another special – she would like them to use wording "check your super today". Noted this could be included in future ASIC flyer mentioned earlier.

Q.10 – CSLR Taking Over Units of Failed Funds

What is ASIC's position on enabling the CSLR to take over the units of the failed funds and compensate victims upfront, rather than forcing them to wait for liquidation outcomes? *which in many cases would also prevent the CSLR from incurring significant additional 'but-for' compensation costs.*

[s 22 - **ASIC]** The CLSR is designed by legislation as a last-resort scheme that operates only after AFCA determinations remain unpaid. ASIC does not have the power to expand the CSLR to take over units or provide upfront compensation ahead of liquidation outcomes. Would require regulatory reform which as mentioned would not be retrospective.

Noted more generally, that there is a CSLR review due to kick off early 2026. Might be the appropriate forum to raise broader concerns regarding CSLR. Treasury are conducting the review. However, any changes to CSLR or internal complaint process changes at AFCA would only apply to future complaints not retrospective complaints.

5. Other questions/points raised:

i. Travel restraints

[s 22 – **SOS Group]** Will ASIC extend all POI travel restraint orders due to expire next year?

[s 22 – **ASIC]** ASIC will always consider need to apply or extend where there are grounds to do so and is necessary for our investigations. ASIC's powers to apply for travel restraints are for the purposes of individuals remaining in Australia to assist ASIC with its investigations – not for purposes of compensation etc. The test the court must consider relates to whether there is a genuine flight risk (will not return to Australia) which is difficult to prove and the longer they remain in place the harder it can be to extend them. These orders restrict freedom of movement which is a fundamental right and therefore court must conduct a careful balancing act.

ii. AFCA portal

[s 22 – **SOS Group]** Struggling to access his complaint on the AFCA website.

s 47C(1)(a)

[s 22 – **SOS - Group]** Clarified she sent s 22 how to access previous AFCA determinations that is why he is unable to find his specific complaint – not what that webpage was for.

[s 22 – **AFCA]** Can search for your own complaint but has to be via the portal not published determination page. AFCA will confirm that this is easily found and can look to update First Guardian and Shield site if not there already as a link.[4]

iii. Third parties

[s 22 – **SOS Group]** Law firms are charging $15-$20k to run complaints through AFCA.

[s 22 – **ASIC]** Are you also coming across any calls or emails from third parties who are stating they ' can help you get your money back?'

[s 22 – **SOS Group]** Yes, they tend to go into spam folder but we are aware of third party contact.

[s 22 – **ASIC]** ASIC is interested in the broad contact by third parties, can send us through any emails or examples which have caused concern among consumers.

6. Close

[s 22 – **ASIC]** Thanked investor group and AFCA for meeting. If any further questions or concerns after the meeting, SOS Group can reach out directly and we can try and assist as best we can with any queries.

Meeting closed at approximately 4pm.

[4] ASIC may wish to consider updating our website to include a link to AFCA portal so consumers can search for their own complaints and track progress.

From: s 22
To: s 22 s 22 s 22 s 22 s 22 s 22
Cc: s 22 s s 22 s 22 s s 22 s s 22 s s
Subject: briefing for today"s investor group meeting [SEC=OFFICIAL:Sensitive]
Date: Monday, 15 December 2025 8:11:13 AM
Attachments: image001.png

Hi all

A briefing for this afternoon's investor meeting is here: Briefing for Investor meeting.docx.

Thanks to all who have been working on this the last few days.

Kind regards,

s 22 s 22 (he/him)
Senior Executive Leader – Fintech
Markets Group
Australian Securities and Investments Commission
Level 5, 100 Market Street, Sydney NSW 2000
Tel: s 22 | Mob: s 22
s 22 s 22 asic.gov.au
EA: s 22 s 22 | Tel: s 22 s 22 s 22 asic.gov.au
(I work flexible hours and at different times of the day - I do not expect that you will respond to this email outside your regular working hours)

ASIC FOI 2627-007

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Briefing for ASIC/AFCA meeting with Shield/First Guardian investors

Logistics

- Monday 15 Dec at 2.30pm-3.30pm AEDT
- Attendees:
  - ASIC - s 22 Sydney), s 22 s 22 (Melbourne), s (Perth)
  - AFCA - s 22 (Sydney) and s 22 (Melbourne)
  - Investor group reps - s 22 (Sydney) and s 22 s 22 (Perth)

Background

- ASIC has met with this investor group directly and jointly with AFCA. The last meeting was in September.
- The group has also met with Minister s 22 (which ASIC helped arrange).
- We have regular contact with the investor group, including via the Shield/First Guardian mailbox. Recent queries include
  - Asking for an update from the liquidators, in the lead up to the recent FTI report
  - Some concerns about our recent investor comms about 'not rushing' major investment decisions, which some had interpreted as an indirect criticism of Shield/First Guardian investors.
  - Questions about AFCA process and who to complain against. More recently, suggestions that super trustees were encouraging consumers to complain about their financial advisers and vice versa.

Key messages

- ASIC is taking a range of supervision, compliance and enforcement actions to respond to super switching misconduct.
- We are also actively engaging with the Government and co-regulators (APRA and ATO) to ensure that the financial services system is as robust as possible and consumer losses are minimised.
- ASIC's regulatory role does not involve preventing all consumer losses or ensuring compensation for consumers in all instances where losses arise.
- The superannuation sector is a critical part of the financial services industry and the economy more generally, and it is important that consumer trust is maintained in our long-term compulsory retirement savings system.
- We have invested significantly in enforcement action relating to the Shield Master Fund and First Guardian Master Fund. So far ASIC has had more than 50 court appearances related to Shield and First Guardian and more than 40 staff working on the connected investigations.

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Recent enforcement action

- ASIC has now commenced 11 proceedings in the Federal Court against 19 defendants in relation to Shield and First Guardian.
- Since we last spoke to this group in September, ASIC has:
  - **Macquarie:** Commenced proceedings against Macquarie and accepted a court enforceable undertaking from Macquarie under which Macquarie has now paid its members 100% of the amounts they invested in Shield less any amounts withdrawn;
  - **Equity Trustees:** amended its court proceedings against Equity Trustees to seek compensation for members for losses resulting from the alleged failures by Equity Trustees in making the Shield Master Fund available on its superannuation platforms;
  - **MWL Financial Services, its directors and Imperial:** sought leave to commence civil penalty proceedings against MWL Financial Services as they are in liquidation, MWL's former director and Imperial Capital over alleged Shield advice failures;
  - **Interprac:** commenced civil penalty proceedings against Interprac for allegedly failing to ensure its former authorised representatives Venture Egg and Rhys Reilly Pty Ltd complied with the best interests obligations and for failing to have adequate risk management systems and orders to restrain Interprac from carrying on a financial services business;
  - **Diversa Trustees:** commenced civil penalty proceedings against Diversa for failing to conduct adequate due diligence before allowing its members to invest in First Guardian and failing to conduct adequate ongoing monitoring. Further, ASIC alleges that Diversa failed to enforce a 50% holding limit it imposed for First Guardian and failed to have systems and processes in place to ensure that there was compliance with that holding limit. ASIC has sought compensation for members for losses resulting from these failures;
  - **SQM Research** commenced civil penalty proceedings against SQM Research alleging misleading reports and that its processes fell short of expected standards in relation to Shield;
  - s 22 secured interim orders restraining s 22 from operating within the financial services industry. ASIC was also successful in obtaining orders for the appointment of a receiver to identify all assets and liabilities of Mr s 22 and provide a report. A provisional liquidator has also been appointed to Venture Egg Financial Services Pty Ltd and United Financial Advice Pty Ltd, being entities through which Mr s 22 and other financial advisers provided financial advice to clients ; and
  - **Advisers:** banned more UGC and MWL advisers and individuals.
- Our investigations in relation to Netwealth and Equity Trustees in relation to First Guardian are ongoing.
- Our investigations into these matters are complex and ongoing. They include numerous lines of inquiry into the conduct of a large number of entities and individuals including lead generators, financial advisers, advice licensees, superannuation trustees, the research house, auditors and the managed investment schemes.
- If asked about s 22 or any of our other investigations – our investigations are ongoing, unable to comment.

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Law reform

- ASIC has been working closely with the Minister and Government on potential law reforms to respond to the Shield/First Guardian collapse.
- We have called for reforms on lead generators, super switching, trustee duties and the MIS regime.
- The minister announced this week ongoing work on all of these, and we will continue to support Treasury with this work. A consultation paper is expected early in the new year (February likely).

Other current issues

- SMSF fee waiver issue
  - ASIC is aware that investors who invested in the Shield Master Fund and First Guardian Master Fund via a SMSF will receive annual company review fees from ASIC.
  - Those investors may also receive late payment fees from ASIC if the annual review fees have not been paid on time.
  - ASIC is giving consideration to this issue, however ASIC has limited power to cancel fees. There is further information on our website, including a link to an application form. We need to consider all the facts and circumstances of each case.
  -
- Ongoing fees being charged by trustees
  - Members may have other funds in their accounts apart from what was invested in Shield or First Guardian. Our understanding is that fees are being charged on any remaining funds under management in the account (excluding amounts relating to Shield/FG).

AFCA / complaints handling / compensation

- AFCA will lead this topic as part of their update.
- We are talking to AFCA about what we can do to streamline the complaints lodgement and handling process.
- ASIC is aware of issues regarding documents and client files and is considering how we could help to improve this process. The documents that we hold in relation to First Guardian clients – we note that this is not a simple process there are many documents and they were not kept in an orderly manner.
- We are working with the Minister and Treasury on the CSLR review, which the investor group is already aware of.

Consumer communications

- SCA website
  - ASIC has provided funding to Super Consumers Australia to provide independent and trustworthy information and self-help tools to people who invested in the Shield and First Guardian Master Funds.


s 47C(1)(a)

ASIC FOI 2627-007

- Super Consumers is an independent, not-for-profit organisation which advocates for people in Australia's superannuation system.
- Super Consumers' website is expected to be launched in the next week or so.

- ASIC is preparing correspondence to investors in Shield and First Guardian to let people know about Super Consumers' website. This will also serve as a prompt for those investors who may not know they were investors in Shield/First Guardian.
- ASIC expects more correspondence to investors next year in relation to making an AFCA complaint.

Questions that may get asked

- Posts on Facebook about Netwealth and why they are not paying victims given that they have a substantial Operational Risk Reserve.

  Answer: Our investigation is ongoing in relation to Netwealth. Like with all of the super trustees we are exploring avenues for compensation.

- On Friday s 22 posted this question on the Facebook website: *Since 2022, when ASIC says the First Guardian issues first came to their attention, there has been approximately $341 million in civil penalties issued against financial-sector organisations. When ASIC takes enforcement action and secures large civil penalties, for example, the $240 million penalty against ANZ, why do those funds flow to Consolidated Revenue (Treasury) instead of being directed into the CSLR?*

  A: It is a matter for the Government as to how the CSLR is funded. The Consolidated Revenue Fund is self-executing in nature, which means that all money received by the Commonwealth automatically forms part of the Consolidated Revenue Fund.

- What is the status of the Interim Distribution for Shield?
  - The Receivers have filed an application with the Court seeking judicial advice and directions on the proposed sale of 100% of Bell Potter Securities and to distribute 75% amongst unitholders. The initial distribution will mean that investors of conservative, balanced, growth and high growth classes will receive between 6.83% and 34.30% of their funds.
  - the Falcon Liquidators have been joined as contradictors as they are concerned that Falcon's interests as a potential SMF trust creditor and non-trust creditor of Keystone could be prejudiced by the interim distribution if Falcon is entitled to the SMF's assets. This is particularly since the interim distribution may cause a large proportion of the SMF assets to become effectively unrecoverable.
  - There is a further court hearing on 19 December 2025. The substantive application to sell the shares is listed for 19 February 2026.

- Upcoming Court dates:

Public examination by liquidators of s 22 (director of Shield)	18 November 2025
ASIC v MWL Financial Services, MWL's director, Imperial (CMH)	15 December 2025

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Public examination by liquidators of s 22 and s 22 (Falcon directors) – s 22 is s 22	19 December 2025
Public examination of s 22	22 December 2025
ASIC v Equity Trustees Superannuation Limited (Shield) (CMH)	21 February 2026
ASIC v s 22 (CMH)	6 March 2026
ASIC v Macquarie Investment Management Ltd (hearing)	20 March 2026

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QUESTIONS FROM [redacted] 14 DECEMBER 2025

Q.1 – Re-registration of APT Strategies [EY Note: AFCA may lead as relevant to complaints]

Strategies. Can the membership of APT Strategies be reactivated?
I am now aware of investors who invested in managed funds that were under the umbrella of a company called the Australian Fiduciaries Limited. What I understand happened is similar to the First Guardian/Shield matters, where a representative of APT Strategies cold-called investors, recommended SMSF's and then recommended people invest in managed funds within Australian Fiduciaries Limited.
APT Strategies AFCA Membership ceased in May 2025; however, Australian Fiduciaries didn't go into liquidation until 4 July 2025. There is a strong concern a similar situation now faces investors in Australian Fiduciaries, which was going to face UGC First Guardian investors. They have a valid complaint to pursue, but the date they could have been aware of an AFCA claim only arose after APT Strategies ceased to be a member.
Can you please provide an update on this, and will you consider re-opening AFCA Complaints as was done with UGC?

Notes: APT was first deregistered on 3 January 2025 – in response to the liquidator lodging the relevant form. AFCA ceased their membership in 2025. [redacted] – indicated he might look to reinstate APT on behalf of his clients. ASIC stood ready to assist. APT were the advisers calling investors to invest in AFL.

Proposed answer:

- AFCA's ability to consider complaints is generally limited to firms that are current members. Once a firm's membership has ceased, new complaints typically cannot be accepted.
- As APT Strategy has been deregistered, it has no legal identity. In order for APT Strategy to be able to reactivated as a member of AFCA, its registration as a company would first need to be reinstated. This can be done by an 'aggrieved person' applying to the Court for reinstatement. It would then be for AFCA to decide whether to reactivate the membership.
- However, in exceptional circumstances—where significant consumer harm is identified and it becomes clear that investors only became aware of their claims after membership ended—AFCA has previously supported the temporary reinstatement of membership. This approach was taken with UGC, allowing affected consumers to lodge complaints that would otherwise have been excluded.
- reinstatement of a firm's AFCA membership does not automatically reopen complaints that were previously closed. Any further consideration would depend on AFCA's Rules and jurisdictional tests, and would be assessed by AFCA on a case-by-case basis.

Q.2 – MWL Insurer [redacted] note: AFCA may lead as relevant to complaints]

There is an MWL investor who has been successful with their AFCA case against MWL

The liquidators for MWL have advised that the insurer has been notified of the investor's claim prior to liquidation, but the lawyers have yet to hear from a representative of the insurer. I understand that AFCA cannot enforce the Determination against MWL to force payment; however, the concern is that without active steps being taken, the insurer may try to avoid indemnifying MWL for the investor (and other investors') claims. Given that non-payment of the Determination will be reported to ASIC, what steps can be taken to engage with the insurer? I note ASIC's condition when cancelling MWL's AFSL required professional indemnity insurance to be maintained until 25 August 2026. I assume a policy should respond, rather than placing additional pressure on the CSLR.

Could you please advise tomorrow what the best steps are to take and how ASIC can assist?

Proposed answer:

s 47C(1)(a)



ASIC FOI 2627-007

- Where an investor has received a favourable AFCA determination against MWL, and the liquidators have confirmed that the insurer was notified of the claim prior to liquidation, it is important to ensure the insurer responds appropriately and in a timely manner.
- While AFCA cannot enforce payment of the determination against MWL, the insurer may still have an obligation to indemnify MWL for valid claims under the professional indemnity insurance policy, which ASIC required MWL to maintain until 25 August 2026.

Recommended Actions for Investor Representatives:

- Continue to follow up directly with the insurer, referencing the AFCA determination, the notification of the claim prior to liquidation, and the ASIC-imposed insurance condition.

Q.3 – InterPrac Cases Over $150k [s [redacted]note: AFCA may lead as related to complaints]

Will ASIC support AFCA prioritising higher-value InterPrac complaints, particularly those over $150,000, while InterPrac remains solvent, to ensure older victims do not miss out on full compensation due to solvency erosion over time?

This will assist victims whose compensation depends on InterPrac staying solvent.

Aligns with fairness, urgency, and risk-management principles. This should align with Q10.

Ensuring no one is disadvantaged.

Proposed answer:

- ASIC recognises the importance of ensuring that victims with higher-value complaints, particularly those over $150,000, are not disadvantaged due to the potential erosion of InterPrac's solvency over time.
- ASIC is supportive of AFCA taking steps to prioritise higher-value complaints, especially where there is a risk that delay could result in victims missing out on compensation. ASIC will continue to engage with AFCA to encourage the timely resolution of these matters and to ensure that the interests of all affected consumers are protected. ASIC can't direct AFCA to prioritise complaints by dollar value. However, ASIC supports AFCA applying risk-based prioritisation within its Rules, including where high-value complaints also reflect significant consumer harm or systemic issues.
- ASIC's role is complementary, not directive: through supervision and enforcement (including proceedings currently in the Federal Court against Interprac Financial Planning), ASIC can help clarify liability and misconduct issues, which may assist AFCA to progress related complaints more efficiently—without ASIC setting AFCA's priorities.

Q.4 – Age and Impact-Based Prioritisation

Given that higher-value losses typically correlate with older Australians who have less time to recover financially, will ASIC advise AFCA and Treasury on creating an age- and impact-based prioritisation pathway so these InterPrac cases are resolved before solvency becomes a barrier?

I believe this recognises financial vulnerability and age-related urgency and helps prevent catastrophic outcomes if InterPrac's solvency deteriorates. This also frees up resources on government agencies, along with Centerlink payments that otherwise would not be required.

Proposed answer:

- ASIC recognises that higher-value losses often affect older Australians, who may have limited time and resources to recover financially.[s 47C(1)(a) [redacted] s 47C(1)(a) [redacted]]
- ASIC is supportive of measures that would enable AFCA and Treasury to implement an age- and impact-based prioritisation pathway for resolving InterPrac complaints. This approach would help

s 47C(1)(a)



ASIC FOI 2627-007

ensure that older and financially vulnerable victims receive timely compensation, reducing the risk of hardship and the need for additional government support, such as Centrelink payments.

Q.5 – ASIC Engagement with InterPrac for Cases >$150k

Will ASIC engage directly with InterPrac to ensure full cooperation, rapid document production, and non-obstruction in complaints over $150k, so AFCA can issue determinations while the licensee remains capable of paying?

Compel cooperation and enforce timeliness. Prevents strategic delay by licensees.

Ensures victims receive compensation before a potential insolvency event shifts cases to CSLR.

Proposed answer:

ASIC recognises the critical importance of ensuring that complaints over $150,000 are resolved efficiently while InterPrac remains solvent, so that eligible victims can receive full compensation and are not disadvantaged by delays or potential insolvency.

ASIC is committed to engaging directly with InterPrac to:

- Ensure full cooperation with AFCA complaint processes.
- Prevent any obstruction or strategic delay by InterPrac or its representatives that could impact the timely resolution of complaints.

This commitment is reflected in ASIC's recent correspondence to Mr s 22 Director and Responsible Manager of Interprac, dated 17 October 2025. In this letter, ASIC reminded Interprac of its obligations under ASIC Regulatory Guide 271, the Corporations Act 2001 (Cth), and the Australian Securities and Investments Commission Act 2001 (Cth). ASIC specifically instructed Interprac to immediately cease and desist from contacting consumers in ways that might discourage, interfere with, or delay the lodging of complaints with AFCA, and to take corrective action regarding any such statements already made.

Q.6 – Enforcing Timely Cooperation from Regulated Entities

What steps will ASIC take to enforce timely cooperation from regulated entities, especially InterPrac and trustees, so that jurisdictional challenges or delays by one party do not block thousands of AFCA complaints?

Eg, intervene, issue notices, or direct compliance-related action. This would remove the biggest bottlenecks victims face.

Proposed answer:

- ASIC recognises that delays and jurisdictional challenges can create significant bottlenecks for investors, particularly where large numbers of AFCA complaints are affected. While ASIC does not resolve individual disputes or control AFCA's jurisdictional decisions, it does have strong regulatory tools to require cooperation from regulated entities where delay or obstruction raises compliance concerns.

- ASIC engages with AFCA at a systemic level to identify patterns of delay or conduct that may warrant regulatory intervention – while respecting AFCA's independence and role in dispute resolution.

- ASIC's focus is on addressing systemic issues and conduct risks, rather than directing outcomes on individual complaints. ASIC's role is to remove systemic barriers and hold

s 47C(1)(a)

ASIC FOI 2627-007

regulated entities to account where their conduct contributes to delay or investor harm, while preserving the independence AFCA and the dispute resolution process.

- ASIC's role is to regulate conduct and to intervene where a regulated entity's approach to complaints reflects broader failures in governance, systems or compliance with its licence obligations.

Q.7 – ASIC Providing Early Liability Position to AFCA

Will ASIC commit to providing AFCA with a formal position on liability issues as soon as its investigations allow, so AFCA can issue earlier determinations for victims, particularly those whose losses fall below the CSLR compensation cap?

AFCA slows down when liability questions are unclear. ASIC clarity = faster AFCA determinations = faster CSLR payouts.

Proposed answer:

- ASIC cannot pre-empt or direct AFCA's determinations, nor provide findings on liability before its investigations are sufficiently advanced. However, where appropriate and as investigations progress, ASIC can and does engage with AFCA at a systemic level to share its position in relation to the outcome of its investigation and the commencement of civil proceedings against the entities the subject of its investigation – consistent with confidentiality and procedural fairness obligations.
- ASIC's focus is on progressing its investigations as efficiently as possible and, once positions are settled, communicating outcomes that may assist AFCA's consideration of complaints, particularly where large numbers of consumers are affected. Any such engagement must occur at the right point in the regulatory process and within ASIC's statutory framework.
- Where ASIC has commenced proceedings against entities that are also the subject of AFCA complaints (Interprac, ETSL, Diversa, MIML, MWL), those proceedings and any publicly available pleadings or court outcomes may be take into account by AFCA in accordance with its rules and independent processes. ASIC cannot provide early findings on liability or direct AFCA determinations, but the initiation and progression of court proceedings can help clarify legal and factual issues relevant to complaints.
- As ASIC investigations progress and positions crystallise, ASIC can engage with AFCA on at a systemic level to share regulatory context, subject to confidentiality procedural fairness and legal constraints. This approach can assist AFCA progress these matters where appropriate particularly for complainants whose losses fall below the CSLR compensation cap.

Q.8 – Grouping or Batching Similar Complaints

Will ASIC formally recommend legislative or regulatory changes that allow AFCA to group or batch similar complaints arising from the same licensee, so AFCA is no longer forced to handle thousands of identical cases individually?

AFCA cannot create batch processing on its own. ASIC can advise Treasury and the Minister to urgently enable it. This is fully within ASIC's ability to advocate and trigger reform. Will you step up to ensure this is actioned?

Proposed answer:

- ASIC understands why investors are asking for a grouping / batching mechanism where there are large volumes of similar complaints tied to the same licensee.

s 47C(1)(a)

[redacted]

- ASIC agrees that enabling AFCA to group or batch similar complaints arising from the same licensee would streamline the process, reduce administrative burden, and deliver faster outcomes for affected consumers.
- ASIC does not direct AFCA's case handling model and cannot compel AFCA to group complaints or change its procedures. AFCA's processes are set by its Rules and its regulatory settings – not by ASIC's instruction.
- AFCA already has tools to help manage large volumes of similar complaints, including test cases and applying consistent reasoning across matters. However, AFCA's rules require individual determinations and procedural fairness, which limits full batching. More fundamental batching or group determinations would require changes to AFCA Rule's or legislation.
- ASIC's immediate lever is enforcement and supervisory action against underlying alleged misconduct against the AFS licensees, advisers, lead generators and superannuation trustees. Those actions can help public findings/evidence that may assist AFCA to resolve complaints more efficiently – though ASIC cannot pre-determine AFCA outcomes or timelines.
- While AFCA cannot implement batch processing under the current legislative framework, ASIC acknowledges the value of this reform and is prepared to consider with AFCA, an approach to manage batching within the limits of preserving individual determinations and review rights under AFCA rules.

Q.9 – Documentation: SOAs

Will ASIC use its compulsory powers to require trustees, licensees and liquidators to immediately provide all missing client files, SOAs, and product records to AFCA so victims' complaints can progress without delay?

AFCA is stuck because documents are missing. ASIC can compel production under its powers. If ASIC acts, AFCA can process thousands of stalled cases. Will you step up to ensure this is actioned?

Proposed answer:

- ASIC is aware of issues regarding documents and client files and is committed to working with AFCA and other stakeholders to consider how we could help to improve this process where possible to support the efficient resolution of complaints.

- Where ASIC already holds the client files, ASIC has the ability, in appropriate circumstances, to disclose information it has already obtained (pursuant to notices issued in ASIC investigations) under its compulsory powers under s 127 of the ASIC Act. Any disclosure is discretionary and must meet statutory, confidentiality and public interest requirements. It is subject to the purpose limitations in s127 (e.g. disclosure for the performance of functions or to assist another agency); confidentiality and privilege constraints; procedural fairness and public interest considerations. ASIC can consider releasing relevant information already gathered pursuant to s 127 where it is appropriate to do so.

Q.10 – CSLR Taking Over Units of Failed Funds

What is ASIC's position on enabling the CSLR to take over the units of the failed funds and compensate victims upfront, rather than forcing them to wait for liquidation outcomes, which in many cases would also prevent the CSLR from incurring significant additional 'but-for'

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compensation costs?

Proposed answer:

- ASIC acknowledges the significant hardship and uncertainty faced by investors in Shield and First Guardian particularly where the liquidation process is protracted and the prospects of meaningful recoveries are limited. ASIC also recognises that delays in compensation can exacerbate financial distress for affected consumers and may result in additional costs to the CSLR if compensation is ultimately required.
- The CLSR is designed by legislation as a last-resort scheme that operates only after AFCA determinations remain unpaid. ASIC does not have the power to expand the CSLR to take over units or provide upfront compensation ahead of liquidation outcomes.
- ASIC does not have the power to direct the CSLR to take over units of failed funds or to compensate victims prior to the conclusion of liquidation. Any change to enable upfront compensation or asset takeovers by the CSLR would require legislative reform and policy decision beyond ASIC's remit.

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9:19 69

Agenda - ASIC-AFCA - Me...

ASIC
Australian Securities & Investments Commission

Agenda

ASIC/AFCA – Meeting with Investor Group Representatives

Monday 15 December 2025, 2.30pm – 3.30pm, AEDT

In-person: ASIC Sydney office / ASIC Melbourne office / ASIC Perth office

Item
1. Introductions
2. Update from ASIC
3. Update from AFCA
4. Update and questions from Investor Representatives
5. Discussion about ASIC and AFCA website information
6. Close

From: s 22 s 22
To: s s 22 s 22 s 22 s 22 s
Subject: FW: s 22 s filenote of investor meeting with A-T [SEC=OFFICIAL]
Date: Thursday, 2 October 2025 11:00:00 AM
Attachments: image001.jpg
image002.png
Download.pdf
image003.png
image004.png

Hi all
As mentioned this morning, there are some additional questions from the Investor Group that s 22 would like us to prepare answers on (last page of the attached document).
I've set up a word doc here and entered some text as a starting point: Responses to investor group questions post AFCA-ASIC meeting.docx
Would you mind having a go at answering?
Many thanks

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From: s 22 s
Sent: Tuesday, 30 September 2025 6:51 AM
To: s s 22 ; s 22 s 22 ; s 22 s 22 ; s 22 s 22
Cc: s 22 s 22 ; s 22 s 22 ; s 22 s 22 ; s 22 s 22
Subject: s 22 filenote of investor meeting with A-T [SEC=OFFICIAL]

Another file note by s 22 published on the website attached.

UPDATE TO MEMBERS: Investor Meeting with Mr s 22 s 22

In our first meeting with ASIC in late August, we expressed our disappointment that we had not heard from the Treasury's Office (particularly when s 22 had sent SO MANY emails).
As a clear demonstration of the communication between ASIC and the Treasury's office, I received a call from s 22 s 22 at ASIC a week after the meeting, asking if he could pass my number on to Mr s 22 office, as they would like to organise a time for a private meeting.
I mention this as I believe it's just as important to convey the good work that is being done by ASIC. We have every right to be angry at the injustice of the situation we are facing; no one will take that from you! I truly believe that if we want to achieve more tomorrow, we must first be grateful for the small but meaningful steps we benefit from each day.
We didn't receive all the answers I had hoped for to the solutions I put forward, but what we did achieve was the opening of a clear and constructive line of communication with the government. And for that, I am genuinely grateful. It's an important step forward, and together we will keep pushing for the outcomes we all deserve.
The meeting with Assistant Treasurer s 22 s 22 was constructive and filled with a clear sense of empathy and dedication to understanding the depth of pain and uncertainty that thousands of victims are living with. I remained firm and persistent in presenting practical solutions, not as a bailout, but as a **"Pay Now, Recover Later"** approach that I strongly believe is both fair and responsible. This model recognises the systemic failures that allowed this crisis to happen, including what many see as ASIC's delays in acting on red flags and the regulatory loopholes that enabled cold callers to pressure people into unsuitable MIS products, while ensuring that victims are supported now, and costs are recouped later from those responsible. The conversation was

an important step forward, and I will continue to advocate relentlessly for meaningful action and accountability. Mr s 22 has opened the door for another catch-up to take place in 4 weeks, in which I will keep you posted.

Please see my attached PDF, which was sent through to Mr s 22 before our meeting. I have made notes around the responses on each topic that was discussed.

A solution was not agreed on; however, that does not mean ASIC and Treasury are not working towards the best possible outcome for us all.

#sossaveoursuper

#saveoursuperfgmfcollapse

Regards,

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From: s 22 s
Sent: Sunday, 28 September 2025 10:20 PM
To: s s 22 <s 22s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>
Cc: s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>
Subject: Facebook page re ASIC/AFCA meeting [SEC=OFFICIAL]

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AFCA Meeting Update – Summary for Members:

(*Please see attached PDF with my prepared questions and responses from AFCA, these were prepared pre the Macquarie announcement)*

Firstly, I would like to thank s 22 s 22 the Executive Director of Enforcement & Compliance for ASIC, for arranging this meeting to address concerns I had raised approximately a week earlier. In attendance also from ASIC was s 22 s 22 Senior Executive Leader – Financial Advisers and Investment Management. Appreciation goes out to the 3 Senior members of AFCA who made a specific flight to Sydney to meet with us.

s 22 s 22 Deputy Chief Ombudsman, s 22 s 22 Head of Legal and s 22 s 22 Lead Ombudsman, Investments & Advice.

Thursday's meeting with AFCA (& ASIC) was long and often frustrating. While some progress was shared, including confirmation that complaints are now being processed, in particular that UGC and NextGen cases have been reinstated, many answers were long-winded, leaving little time for several key questions that remain unanswered.

AFCA admitted early mistakes in how complaints were handled and confirmed that some previously closed cases may be reopened, depending on, whether they have additional rights over and above the remediation. AFCA confirmed they would look into it. They also stressed that their service is free and that people do not need lawyers to lodge a complaint.

Despite these commitments, there is still no clear, fast pathway to compensation for most victims, and trustee accountability remains a major unresolved issue.

My top 4 takeaways from the meeting indicate positive steps forward.

1. Macquarie Compensation Deal:
Victims on Macquarie's platform will receive 100% of their net capital invested (70% inside super, 30% outside) a significant and immediate recovery, without waiving any legal rights OR future claims for loss in growth via AFCA (But for.)
2. AFCA Progressing Complaints:
AFCA confirmed it is not waiting for court cases to finish and has reinstated UGC and NextGen complaints**,** issued lead decisions**,** and resumed case assessments, a shift from early delays. Time will tell. I believe there are still unanswered questions around why complaints against Interprac have not been processed.
3. Focus on Vulnerable Victims:
AFCA agreed to fast-track complaints for retirees, people facing hardship, illness, or homelessness, recognising the human impact and need for urgent relief. If you are in a vulnerable position you do need to let AFCA know as soon as possible- in writing. I would be very pleased to hear from any victims with Interprac who are in a vulnerable position, as I believe this still needs to be monitored.
4. Improved Communication & Support:
AFCA is committed to clearer communication (FAQs, document checklists, dedicated contacts), a public webinar (23 Oct**)**, and stronger messaging that its service is free**,** aiming to reduce confusion and exploitation by lawyers. I have raised concerns directly with ASIC in regards to two law firms that appear to be targeting FGMF victims and charging up to $20k on a no-win-no-fee basis for AFCA Complaints – Not advising customers this is a free service and does not require a lawyer, as AFCA staff are trained to assist.
Areas that left me unsatisfied
1. No Unified Compensation Pathway:
ASIC and AFCA operate in separate silos; ASIC focuses on oversight, enforcement and deterrence, while AFCA handles individual client disputes. There is no coordinated government-led scheme for broad restitution, other than AFCA and the CSLR. In saying this, I do believe 100% both agencies genuinely want to see a resolution to this that falls in the favour of the victims; however, I can't help but feel they are restrained by unspoken politics and regulatory constraints. Raising the question as to why Jim Chambers has not updated the Statement of Expectations since 2021.
2. Trustee Accountability Unanswered:
AFCA did not provide a clear plan for holding Equity Trustees, Netwealth, or Diversa accountable for their ongoing fiduciary duties. AFCA stated it was still early in the process, leaving a major gap in victim redress.
3. Early Complaint Handling Failures:
Many trustee complaints were initially dismissed or closed due to jurisdictional issues, and victims were often redirected, misinformed, or delayed, causing significant frustration and loss of trust. A firm commitment is still required that these cases will be reopened, as you have 1 opportunity to submit a complaint against an entity (unless there is significant new evidence).
4. Long Timelines Still Likely:
AFCA admitted complaints could still take many months or years to resolve due to volume, legal complexity, and jurisdictional overlaps, risking a 2–5 year wait for many victims. I strongly do not believe this is excusable and question if these delays are strategic, and if they meet AFCA's own standards of fairness.
5. No Broader Government Response:
Unlike disaster responses (e.g., bushfires), there is no coordinated government action to support affected families, no emergency payments, welfare interventions, or cross-agency assistance,

despite the scale of financial devastation. These are the points I also raised in our meeting with Mr. s 22 s 22

Regards,

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Treasury Solutions to Protect and Support Victims of the First Guardian & Shield Fund Collapse

PROBLEMS

Financial Loss & Retirement Security

- Loss of life savings: Retirement funds locked in collapsed products, leaving many with little or no money to live on. Retirees and those close to retirement are in immediate financial distress as a result, and compensation schemes are both inadequate (capped at $150,000) and too far away (expected timeframe for payments is 2 years).
- No access to funds: Even though the funds are in liquidation, super balances appear or still appear on statements, giving a false impression of security and resulting in an overstatement of assets for Centrelink reporting
- Reduced income streams: Those who had set up pensions/allocated income streams from these funds now have no payments to cover daily living expenses.
- Forced to sell assets: Some may need to sell their home, investment property, or other assets just to survive.

Responses: *Mr Mulino acknowledged the severity of the financial losses and agreed this was a "real priority."*
He repeatedly stressed that CSLR was the intended policy tool, as recommended by the Hayne Royal Commission, but "was never designed for full compensation" and would not cover losses beyond $150k.
The government has no plan for a new full compensation scheme, nor for the Treasury to directly replace lost super balances.
Mulino praised the Macquarie settlement for being "quick and substantial" *and emphasised ongoing actions against other parties.*

Commitments made *- Continue pursuing enforcement actions and recovery through ASIC.*
Seek to "accelerate" CSLR payouts if possible. Ongoing negotiations with platforms and licensees for compensation.

Tax & Superannuation Complications

- Tax still applies: Members may still be treated as if they have super assets for tax purposes, even though the funds are frozen and unlikely to have any value. Gains on other investments may attract tax.
- Capital gains/loss mismatch: In liquidation, units may be valued at zero, but ATO reporting systems may not reflect this promptly, causing tax reporting headaches & SMSF Fees.
- Contribution traps: Those close to retirement cannot roll over their funds elsewhere or make new contributions, missing opportunities for concessional tax treatment.

Responses: *Mr Mulino acknowledged the reporting mismatch problem and agreed it needs to be addressed. He committed to "check with Treasury" on how fund values are reported when funds are frozen and to explore adjustments, so people are not disadvantaged in means tests.*
Treasury to follow up on asset reporting accuracy and means test implications.
Potential policy review to treat frozen funds as zero-value for tax and Centrelink.
No Commitment: *Regarding Tax credit/refund scheme. SMSF fee waivers or automatic rollovers.*

Centrelink & Age Pension Barriers

- Ineligible for Age Pension: Because Centrelink sees the "super balance" as still existing, retirees are treated as if they have assets, even though the money is gone.
- Asset & income test distortions: Centrelink counts the "ghost" super balance in liquidated funds, pushing people over the thresholds for pensions or other benefits.
- No hardship relief: Many cannot qualify for hardship access since technically the funds still exist in the system, even though they are unrecoverable.

Mr Mulino agreed this "needs immediate attention" and committed to investigating why frozen funds are still being treated as assets.
He agreed that means testing based on outdated fund values was unacceptable and should be corrected.
***Commitments:** Treasury to liaise with Centrelink/Services Australia to address asset-test distortions. Explore interim solutions so people can access pensions or hardship relief.*

Emotional & Health Impacts

- Stress & anxiety: Facing retirement without income or support creates mental health strain.
- Delayed retirement: People who planned to retire now must keep working, sometimes beyond their physical capacity.
- Loss of dignity: Having to rely on family, friends, or charities after a lifetime of saving.

Mulino acknowledged the severe emotional toll as we spent some time discussing a variety of calls that I and Peter, and others have taken. I also addressed that I'd like to see something done by the 31st of October, because we're going into November, which has a high suicide rate in Australia. Then we're going into Christmas.
Mr Mulino agreed that the situation requires acceleration where possible and asked me to please convey a message to the Facebook group that he is meeting regularly with ASIC and his department, as this is a 'real priority' for Treasury.

Legal & Administrative Barriers

- Complex AFCA complaints process: Many are told their complaints are "on hold" pending ASIC investigations or alternatively told they have not complained about the correct entity with no assistance provided by AFCA to identify the correct party or document claims.
- Trustees conflicted. Trustees continue to represent accounts but are likely liable for failing to properly investigate the product they invested in on behalf of the members. They are conflicted yet instructing the liquidators.
- Unclear pathways to compensation: Uncertainty around CSLR caps, litigation funding, and government response.

Mr Mulino reiterated that CSLR and AFCA are the main pathways and that ASIC is pursuing enforcement actions. He noted that trustees must apply for Part 23 fraud reserves, *but the Treasury cannot trigger this itself.*
He agreed that there needs to be better information-sharing and streamlined complaint processes, but no policy change is currently planned.

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Broader Systemic Problems

- No quick liquidation resolution: Liquidation processes can take years, meaning retirees are in limbo without funds.
- Ratings house & adviser failures: Investors trusted professional advice and research reports that rated the funds positively.
- Loss of trust in the superannuation system: Retirees who did "the right thing" now feel betrayed by regulators, trustees, advisers, and government.

Mr Mulino admitted the 2022 MIS review was too narrow and did not address key issues like cold calling, research house roles, or platform due diligence.
Treasury is now examining those gaps, including social media exploitation and origination practices.
He flagged a possible expanded MIS review with new terms of reference, but no timeline or public release date was given.
Treasury will reassess the MIS framework and cold-calling practices.
Considering reforms to platform due diligence and research house accountability

SOLUTIONS

Financial Loss & Retirement Security

- Pooled compensation scheme – a small levy 0.01% against all members with tax concessional earnings (superannuation members) would be sufficient to cover even the most catastrophic product failure.
- Government-backed compensation: Immediate compensation payments to affected retirees, with recovery later from trustees, licensees, and advisers.
- Hardship access scheme: Allow early release of government support or structured hardship payments.
- CSLR reform: Expand the Compensation Scheme of Last Resort to cover super fund collapses, with realistic caps (eg the ASFA comfortable retirement asset calculation)

Tax & Superannuation Complications

- ATO recognition of zero value: Treat units in liquidated funds as worthless for tax purposes immediately.
- Tax credit/refund scheme: Credit back contributions or offset against future tax.
- Simplified reporting: Streamlined ATO processes to automatically adjust impacted members' tax records.

Centrelink & Age Pension Barriers

- Exempt frozen super from means testing: Exclude balances in collapsed funds from the asset and income tests.
- Automatic reassessment: Require Services Australia to adjust pension entitlements once liquidation is confirmed.
- Temporary pension top-up: Provide interim Age Pension payments until compensation or liquidation outcomes are finalised.

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Emotional & Health Impacts

- Crisis support funding: Free counselling and financial advice services for victims, funded by the Treasury.
- Dignity in retirement measures: Fast-track ex-gratia payments to retirees most at risk of poverty.

Legal & Administrative Barriers

- Fast-track AFCA complaints: Require AFCA to process advice-related complaints immediately, not hold them pending ASIC investigations.
- Trustee accountability: Compel trustees to act in the best interests of members in liquidation scenarios, including assisting with compensation claims.
- Independent legal assistance fund: Treasury-funded legal aid for victims navigating claims.

Broader Systemic Problems

- Early warning and intervention system: Treasury to require real-time reporting of unusual inflows/outflows in super funds.
- Auditor and ratings house reform: Impose liability for negligent or misleading reports/recommendations.
- Independent inquiry: Full review of trustee, platform, and ASIC failures, with mandatory legislative reform.
- Super Victims Relief Fund: A Treasury-administered pool, initially government-seeded, then funded by levies on trustees, platforms, and advisers.

Ideal Resolution for Victims of the First Guardian & Shield Fund Collapse

- **Treasury-funded restoration under the "But For Rule": (Recovery Options on the following page)**
  Applying AFCA's own principle, the *"But for Rule"* (i.e., investors should be restored to the position they would have been in but for the misconduct), the Treasury, on behalf of the Australian Government, establishes *new superannuation accounts* for all victims, including those in SMSFs who were exposed to the First Guardian and Shield Master Funds. These accounts are credited with the full value of members' lost balances as at the date of liquidation.
- **Government assumption of units:**
  All existing units in the collapsed funds are transferred to the ownership of the Commonwealth. This ensures that when liquidation proceeds are eventually recovered, they flow back to Treasury, not the victims, who have already been compensated.
- **ASIC enforcement & recovery:**
  ASIC completes its investigations and imposes fines, penalties, and recovery actions against:
  - The **licensees** and advisers who funnelled investors into the funds.
  - The **trustees** who failed in their gatekeeping responsibilities.
  - The **research houses** that gave the funds positive ratings.
  - The **auditors** who failed in oversight duties.
- **"Pay Now, Recover Later" model:**
  The Treasury provides **immediate compensation,** allowing victims to rebuild their retirement security and regain confidence in the government, while ASIC and other agencies pursue the responsible parties to recover funds over time.
- **Fairness across the system:**
  By taking ownership of the units and the liquidation process, the Government ensures there is no double compensation, while also demonstrating accountability and fairness in protecting Australians' retirement savings.

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Government Recovery Options

Option 1 – Levy on 13 RSE Trustees
The 13 RSE licensees collectively manage approximately **$1 trillion** in funds. A levy of **$0.00058 per $1 managed**, charged over two years, would equate to **0.058% of funds under management**. This would raise **$580 million** to rectify the consequences of a systemic failure of oversight and regulation, ensuring compensation for investors affected by the collapse of the First Guardian Master Fund.

Option 2 – Industry-wide Levy
The broader superannuation industry, including SMSFs, manages around **$4 trillion**. A levy of just **0.0725%**, spread over two years, would also raise **$580 million**. This option spreads the cost across the entire system, recognising that this is a structural governance failure rather than an isolated superannuation issue, while ensuring all investors are compensated.

Option 3 – Targeted Trustee Fine + Industry Levy
Alternatively, a **$300 million fine** could be imposed on the three trustees most directly responsible – **Netwealth, Diversa, and Equity Trustees** – reflecting their failures of oversight. The remaining **$280 million** could then be raised through a **0.0035% levy across the industry over 12 months**. Together, this would ensure the **$580 million compensation pool** is delivered to victims, while highlighting the responsibility of both specific entities and the broader system.

Proposed Solution	Government Position (Meeting)
Pooled levy on RSE trustees / industry levy	Acknowledged but not under consideration — government prefers CSLR.
Government "Pay Now, Recover Later"	Rejected "full compensation model not on the table."
New super accounts for victims	Not supported, CSLR remains main mechanism.
Government ownership of units / recovery	No plan to assume unit ownership.
Hardship payment system	Possible exploration, not yet policy.
AFCA fast-track & trustee accountability	Agreed in principle but no changes proposed.
Part 23 fraud reserve use	Only trustees can trigger, Treasury cannot.
CSLR reform (higher caps, super category)	Under review, Treasury will present options.

Mr Mulino acknowledged the logic of the three proposed recovery models (trustee levy, industry levy, or split) but emphasised they all represent a "full compensation model," which is not on the government's agenda.
He also warned that such models might create perverse incentives and attract "bad actors," referencing the UK experience.
Commitments: *Treasury review of CSLR may consider higher caps or special treatment for super. Broader cost-sharing proposals (levies) are not ruled out for future policy discussions.*

Questions for Treasury

In response to a question on ABC's 7.30 program during the election campaign in May about whether Labor would support independent MP Helen Haines's model, then opposition leader Anthony Albanese said: **" We will have a government proposal for a national anti-corruption commission."**
"… and we are confident that our model — which will be one that has serious powers, one that is independent of government — will receive overwhelming support of people like Helen Haines and others because it will be one with teeth, one that is serious.

- Suppose the Government's NACC was meant to give the commission 'teeth' to prevent and expose systemic failures. Why did regulatory and policy gaps still allow an MIS like First Guardian to operate and collapse? *Not asked due to time constraints*
- What gaps have Treasury/Ministers identified and concretely fixed since then, and if none were fixed, why not? *Not asked due to time constraints*

- What remediation or compensation mechanisms have you put in place or are proposing?

In the October 2022–23 Budget, Labour promised to review the regulatory framework for managed investment schemes like First Guardian and Shield. That review was due over a year ago. No findings have been released. No action has been taken. Australians should expect and deserve better.
This was raised by me as a statement, not a question

- That review was due more than a year ago, and no findings have been released. Do you accept responsibility for failing to act on these known regulatory flaws that put Australians' retirement savings at risk? *Not asked due to time constraints*

- Will the Treasurer accept political and administrative accountability for this failure to deliver, and provide a firm timetable (with dates) for releasing the review and implementing any resulting reforms?

Mr Mulino refused to use the word "responsibility" due to legal implications, but said he is "doing everything possible" to help.
He emphasised that government systems had forced Macquarie to come to the table, but did not accept direct accountability for victims' losses

- Will Jim Chalmers be updating a statement of expectation to ASIC? Is it not a concern to the government that neither the 2018 nor the 2021 statement of expectation positions victims of financial crime as a central or driving concern? Leaving their interests subsumed under broader regulatory goals? –

I raised the urgent need for an updated 'Statement of Expectations' for ASIC, as the last one from 2021 makes no mention of prioritising victims of financial crime. I challenged the government on why victim protection remains secondary to enforcement and law reform, and stressed that victims must be at the centre of ASIC's mandate moving forward. Mr Mulino did not commit to a new statement, nor did he offer a timeline for one. He acknowledged ASIC's focus on enforcement but did not address whether Treasury or the government intends to update ASIC's expectations to centre victims' interests. Mr Mulino did, however, refer to the Macquarie settlement as evidence that ASIC can *and* does *prioritise investors in practice, saying that the deal "clearly prioritised victims" by getting money back quickly rather than pursuing penalties.*

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Final Message to Victims

Upon closing, I asked Mr Mulino if he had a message for the Victims – Mr Mulino's message:

ASIC and Treasury are "actively pursuing actions" and meeting regularly.
Victims should know that the government is working towards the best possible resolution in line.
Treasury will continue to review CSLR, consider reforms, and explore ways to "accelerate and expand" compensation within the existing framework.

Prepared by s 22 on **behalf of the Victims of the First Guardian & Shield Fund Collapse**



From: s 22 s
To: s 22 s
Cc: First Guardian Queries; s s 22 s 22 s 22 saveoursupers@gmail.com; s s 22 s s 22 s s 22
Subject: Re: AFCA & ASIC – Meeting with investor representatives [SEC=OFFICIAL:Sensitive]
Date: Wednesday, 8 October 2025 12:08:19 PM
Attachments: 527978576_10165530801753709_7572861418218844506_n.jpeg
SOS LOGO .jpeg

You don't often get email from s 22 sossaveoursuper.com.au. Learn why this is important

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Good afternoon s 22 ,

Thank you for communicating this, and it's certainly an initiative we support.

I have posted the details, and will recirculate again before October 23rd.
As soon as I have time, I will also add it to our website.

FIRST GUARDIAN AND FALCON SUPERANNUATION DISCUSSION. | # **UPDATE FOR MEMBERS: FROM AFCA** | Facebook
facebook.com

s 22 s
s 22 2 sossaveoursuper.com.au
s 22

On 8 Oct 2025, at 11:53 AM, s 22 s 22 wrote:

Good morning s 22 s 22 and s 22
Thank you again for our meeting on 25 September. We appreciated the opportunity to meet with you and discuss the concerns and questions you had about AFCA and our processes.
There were a number of issues you raised during our meeting which we indicated we would look into and/or come back to you on. We are working through those matters now, but also wanted to let you know as soon as

possible about an upcoming consumer webinar that AFCA is hosting regarding Shield and First Guardian.

AFCA will be hosting a live webinar on Thursday 23 October 2025, from 2–3pm (AEDT) to support consumers impacted by the collapse of the Shield Master Fund and First Guardian Master Fund. The webinar is free and open to the public.

The session will provide guidance on:

- how to lodge a complaint with AFCA,
- our jurisdiction and process, and
- resources available to support affected consumers.

We would greatly appreciate your support in sharing this information with your networks and promoting through social media or other digital channels.

Registration form: https://www.afca.org.au/news/events-and-speaking-engagements/shield-and-first-guardian-collapse-how-afca-can-help

Webinar access: Once registered, attendees will receive a link via email to join the webinar online. On the day, simply click the link to attend: https://app.sli.do/event/ezrFzxhrJzd2qmPYJMjHjp

Q&A: There will be time for questions during the session, hosted via Slido (same link as the webinar link).

If a consumer can't make it? A recording will be available on the AFCA website and YouTube channel after the event.

If you have any questions or need further information, please don't hesitate to get in touch.

We will otherwise be in touch again shortly in response to the matters raised in our meeting.

Kind regards

s 22 s 22
Head of Legal
Free Call 1800 931 678
www.afca.org.au

AFCA acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to elders past, present and future.

-----Original Appointment-----

From: First Guardian Queries <firstguardian.queries@asic.gov.au>

Sent: Tuesday, 23 September 2025 12:25 PM

To: First Guardian Queries; s 22 s 22 s 22 s 22 s 22 sossaveoursuper.com.au; info@fincomplaints.com; saveoursupers@gmail.com; s 22 s 22 s 22 s 22

Subject: AFCA & ASIC – Meeting with investor representatives [SEC=OFFICIAL:Sensitive]

When: Thursday, 25 September 2025 4:00 PM-5:00 PM (UTC+10:00) Canberra, Melbourne, Sydney.

Where: ASIC Sydney Office and ASIC Perth Office

[CAUTION: EXTERNAL EMAIL] DO NOT reply, click links, or open

> attachments unless you have verified the sender and know the content is safe.

Dear everyone,

We confirm our meeting at 4pm AEST (2pm AWST) this Thursday, 25 September 2025, at the following ASIC office locations:

ASIC's Sydney Office

Level 5

100 Market Street

Sydney 2000

ASIC's Perth Office

Level 1

11 Mounts Bay Road

Perth 6000

We look forward to meeting with you.

Kind Regards,

Australian Securities and Investments Commission

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From: s 22
To: s 22
Cc: s 22
Subject: RE: ASIC/AFCA – Meeting with investor representatives - receipt of questions from s 22 [SEC=OFFICIAL:Sensitive]
Date: Sunday, 14 December 2025 5:36:11 PM
Attachments: image001.jpg
image002.gif
image003.jpg
Re ASICAFCA Meeting with investor representatives SECOFFICIAL.msg
image004.jpg

Hi s 22 and s 22
Please see attached email from s 22 sent to the First Guardian mailbox earlier this afternoon ahead of tomorrow's investor meeting at 2.30pm.
s 22 has provided a set of questions in advance of the meeting, indicating this is to allow time for review and to ensure the discussion can work through each question. She also attaches a submission she prepared to Minister s 22 and notes the questions stem from issues outlined in a briefing she prepared following a meeting with AFCA on 27 November.
Key themes arising from s 22 questions are as follows:

Investor protection and complaint pathways

- Concerns regarding the ability for investors to pursue complaints against former licensees (e.g., APT Strategies/Australian Fiduciaries Limited/UGC), particularly where awareness of claims arose after AFCA membership ceased.
- Request for ASIC to consider reopening complaints in line with previous precedents.

Insurance and compensation enforcement

- Issues with insurer engagement following successful AFCA determinations against MWL.
- Emphasis on ASIC's role in ensuring professional indemnity insurance responds to claims, reducing reliance on the CSLR.

Prioritisation of high-value and vulnerable AFCA cases

- Advocacy for AFCA to prioritise higher-value complaints (over $150k), especially for InterPrac, to protect older and more financially vulnerable victims before solvency risks escalate.
- Suggestions for age- and impact-based prioritisation pathways to address urgency and prevent catastrophic outcomes for older Australians.

ASIC's engagement and enforcement powers

- Calls for ASIC to directly engage with licensees (e.g., InterPrac) to ensure cooperation, timely document production, and prevent strategic delays.
- Requests for ASIC to enforce timely cooperation from regulated entities and intervene where delays or jurisdictional challenges block complaint progress.

Accelerating determinations and compensation

- Proposals for ASIC to provide early formal positions on liability to AFCA, enabling faster determinations and CSLR payouts, especially for cases below the compensation cap.

Legislative and regulatory reform

- Recommendations for ASIC to advocate for legislative changes allowing AFCA to

batch similar complaints, streamlining processes and reducing administrative burden.

Documentation and evidence gathering

- Requests for ASIC to use compulsory powers to obtain missing client files, SOAs, and product records from trustees, licensees, and liquidators, enabling stalled complaints to progress.

CSLR fund management

- Questions regarding ASIC's position on enabling the CSLR to take over units of failed funds and compensate victims upfront, rather than waiting for liquidation outcomes.

Please let me know which team has assisted with the preparation for the meeting so I can pass this material on. I am happy to assist as well, and will review the materials and collate some responsive material in the mean time.

Kind regards,

s 22 s 22
Senior Lawyer
Enforcement & Compliance
Australian Securities and Investments Commission
Level 7, 120 Collins Street, Melbourne, 3000
Tel: s 22 | Mob: s 22
s 22 s 22 asic.gov.au

From: s 22 s 22
Sent: Tuesday, 9 December 2025 12:39 PM
To: s 22 s 22
Cc: s 22 s 22 ; s s 22 ; s 22 s ; s 22 s 22
Subject: RE: ASIC/AFCA – Meeting with investor representatives - Invites Sent
[SEC=OFFICIAL:Sensitive]

Thanks s 22 much appreciated!

Kind regards,

s 22 s 22
Executive Assistant to s 22 s 22 – Executive Director, Enforcement & Compliance
Australian Securities and Investments Commission
Level 5, 100 Market Street, Sydney NSW 2000
Tel: s 22 | Mob: s 22
s 22 s 22 asic.gov.au

From: s 22 s 22 <s 22 s 22 asic.gov.au>
Sent: Tuesday, 9 December 2025 12:35 PM
To: s 22 s 22 <s 22 s 22 asic.gov.au>
Cc: s 22 s 22 <s 22 s 22 asic.gov.au>; s s 22 <s 22s 22 asic.gov.au>; s 22 s <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>
Subject: ASIC/AFCA – Meeting with investor representatives - Invites Sent
[SEC=OFFICIAL:Sensitive]

Hi s 22

As requested, we have sent meeting invitations for 15/12/2025 via First Guardian mailbox. As per our discussion we have sent two separate invites: one to ASIC/AFCA staff (have included s 22 s 22 who will be escorting s 22 and second to consumer representatives. Please see copies attached.

Kind Regards,

s 22 s 22

Lawyer

Enforcement & Compliance

Australian Securities and Investments Commission

Level 7, 120 Collins Street, Melbourne, 3000

Tel: s 22 | Mob: s 22

s 22 s 22 asic.gov.au

ASIC logo





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From: s 22 s
To: First Guardian Queries
Cc: s 22 s 22 s 22
Subject: Re: ASIC/AFCA – Meeting with investor representatives [SEC=OFFICIAL]
Date: Sunday, 14 December 2025 3:13:15 PM
Attachments: ASIC Meeting Questions Dec 15th 2025.pdf
BRIEFING PAPER - Minister s 22 .pdf
AFCA Meeting 27 Nov 2025.pdf
SOS LOGO .jpeg
image001.gif
image002.jpeg
Mail Attachment.ics

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Hi s 22

Thank you for organising this meeting.

I wanted to send my questions ahead of tomorrow's discussion so you have time to review them and ensure we can work through each one.

I have also attached my submission to Minister s 22 for your reference. These questions stem directly from the issues outlined in my brief, which was prepared following my most recent meeting with AFCA - also attached.

Thank you again for your ongoing engagement in these issues.

s 22 s 22
s 22 sossaveoursuper.com.au
http://sossaveoursuper.com.au/
s 22

On 9 Dec 2025, at 12:29 PM, First Guardian Queries wrote:

Dear s 22 s 22 and s 22
We confirm our meeting at 2.30pm AEDT (11.30am AWST) on Monday, 15 December 2025, at the following ASIC office locations:
ASIC's Sydney Office
Level 5
100 Market Street
Sydney 2000
ASIC's Perth Office
Level 1
11 Mounts Bay Road
Perth 6000

We look forward to meeting with you.
Kind Regards,
Australian Securities and Investments Commission





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Prepared for: s 22 s 22 **&** s 22 s 22
CC:
Prepared by: s 22 s 22
Date: December 14th, 2025
Meeting - December 15th, 2025 2.30 pm

Q.1 – Re-registration of APT Strategies
I have been approached by investors who have claims against former financial services licensee APT Strategies. Can the membership of APT Strategies be reactivated?

I am now aware of investors who invested in managed funds that were under the umbrella of a company called the Australian Fiduciaries Limited. What I understand happened is similar to the First Guardian/Shield matters, where a representative of APT Strategies cold-called investors, recommended SMSF's and then recommended people invest in managed funds within Australian Fiduciaries Limited.

APT Strategies AFCA Membership ceased in May 2025; however, Australian Fiduciaries didn't go into liquidation until 4 July 2025. There is a strong concern a similar situation now faces investors in Australian Fiduciaries, which was going to face UGC First Guardian investors. They have a valid complaint to pursue, but the date they could have been aware of an AFCA claim only arose after APT Strategies ceased to be a member.
Can you please provide an update on this, and will you consider re-opening AFCA Complaints as was done with UGC?

Q.2 – MWL Insurer
There is an MWL investor who has been successful with their AFCA case against MWL.

The liquidators for MWL have advised that the insurer has been notified of the investor's claim prior to liquidation, but the lawyers have yet to hear from a representative of the insurer.

I understand that AFCA cannot enforce the Determination against MWL to force payment; however, the concern is that without active steps being taken, the insurer may try to avoid indemnifying MWL for the investor (and other investors') claims. Given that non-payment of the Determination will be reported to ASIC, what steps can be taken to engage with the insurer? I note ASIC's condition when cancelling MWL's AFSL required professional indemnity insurance to be maintained until 25 August 2026. I assume a policy should respond, rather than placing additional pressure on the CSLR. Could you please advise tomorrow what the best steps are to take and how ASIC can assist?

Q.3 – InterPrac Cases Over $150k
Will ASIC support AFCA prioritising higher-value InterPrac complaints, particularly those over $150,000, while InterPrac remains solvent, to ensure older victims do not miss out on full compensation due to solvency erosion over time?

This will assist victims whose compensation depends on InterPrac staying solvent.
Aligns with fairness, urgency, and risk-management principles. This should align with Q10.
Ensuring no one is disadvantaged.

Q.4 – Age and Impact-Based Prioritisation
Given that higher-value losses typically correlate with older Australians who have less time to recover financially, will ASIC advise AFCA and Treasury on creating an age- and impact-based prioritisation pathway so these InterPrac cases are resolved before solvency becomes a barrier?

I believe this recognises financial vulnerability and age-related urgency and helps prevent catastrophic outcomes if InterPrac's solvency deteriorates. This also frees up resources on government agencies, along with Centerlink payments that otherwise would not be required.

Q.5 – ASIC Engagement with InterPrac for Cases >$150k
Will ASIC engage directly with InterPrac to ensure full cooperation, rapid document production, and non-obstruction in complaints over $150k, so AFCA can issue determinations while the licensee remains capable of paying?

Compel cooperation and enforce timeliness. Prevents strategic delay by licensees.
Ensures victims receive compensation before a potential insolvency event shifts cases to CSLR.

Q.6 – Enforcing Timely Cooperation from Regulated Entities
What steps will ASIC take to enforce timely cooperation from regulated entities, especially InterPrac and trustees, so that jurisdictional challenges or delays by one party do not block thousands of AFCA complaints?

Eg, intervene, issue notices, or direct compliance-related action. This would remove the biggest bottlenecks victims face.

Q.7 – ASIC Providing Early Liability Position to AFCA
Will ASIC commit to providing AFCA with a formal position on liability issues as soon as its investigations allow, so AFCA can issue earlier determinations for victims, particularly those whose losses fall below the CSLR compensation cap?

AFCA slows down when liability questions are unclear. ASIC clarity = faster AFCA determinations = faster CSLR payouts.

SOS
SAVE OUR SUPER
12,000 AUSTRALIANS,
FIGHTING FOR JUSTICE

Q.8 – Grouping or Batching Similar Complaints
Will ASIC formally recommend legislative or regulatory changes that allow AFCA to group or batch similar complaints arising from the same licensee, so AFCA is no longer forced to handle thousands of identical cases individually?

AFCA cannot create batch processing on its own. ASIC can advise Treasury and the Minister to urgently enable it.
This is fully within ASIC's ability to advocate and trigger reform. Will you step up to ensure this is actioned?

Q.9 – Documentation: SOAs
Will ASIC use its compulsory powers to require trustees, licensees and liquidators to immediately provide all missing client files, SOAs, and product records to AFCA so victims' complaints can progress without delay?

AFCA is stuck because documents are missing. ASIC can compel production under its powers.
If ASIC acts, AFCA can process thousands of stalled cases. Will you step up to ensure this is actioned?

Q.10 – CSLR Taking Over Units of Failed Funds
What is ASIC's position on enabling the CSLR to take over the units of the failed funds and compensate victims upfront, rather than forcing them to wait for liquidation outcomes, which in many cases would also prevent the CSLR from incurring significant additional 'but-for' compensation costs?

ASIC FOI 2627-007

BRIEFING PAPER

Strengthening AFCA's Capacity to Resolve First Guardian & Shield Complaints

Prepared for: The Hon. Dr [redacted] MP, Assistant Treasurer, [redacted] MP
CC: [redacted] MP
Prepared by: [redacted]
Date: December 1st, 2025

Purpose of this Briefing

This briefing outlines structural and operational barriers preventing the Australian Financial Complaints Authority (AFCA) from efficiently resolving complaints arising from the First Guardian and Shield collapses. These issues have already been raised directly with AFCA's Head of Legal and Government Relations Team; however, it is evident that several issues require urgent government intervention.

Background

Approximately 12,000 Australians have been impacted by the collapse of the First Guardian and Shield Master Fund structures. Many have lost their entire retirement savings. The AFCA complaints process is now the primary path to redress for thousands of Australians, yet AFCA is working within legislative, operational, and resource constraints that are significantly slowing the progress of cases.

AFCA representatives acknowledged in my meeting that they are dealing with unprecedented volume, unprecedented complexity, and an operating framework not designed for mass-harm events of this scale.

Many barriers AFCA faces cannot be solved internally; they require direction, resourcing, or regulatory reform from the government.

Key Issues Identified

The following issues emerged directly from the AFCA meeting and reflect real barriers preventing timely outcomes for victims.

Issue 1: Poor Access to Documents from Liquidators and Insolvent Firms

AFCA is unable to obtain many SOAs, client files, and supporting documents because:

- Liquidators lack funding to retrieve files.
- They refuse to perform additional searches without payment.
- Some client files appear incomplete or inaccessible.

This is significantly delaying assessments, especially for older or vulnerable complainants.

Government Action Required

- Fund or mandate document retrieval by liquidators for AFCA matters.
- Introduce penalties for non-cooperation or obstruction.
- Require liquidators to supply client files within defined timeframes.

Issue 2: AFCA Legislation Prevents "Batch" or Streamlined Determinations, and AFCA's jurisdiction does not allow complaints against super trustees.

Despite thousands of complaints sharing identical or near-identical fact patterns, AFCA Act requires:

- Case-by-case assessment,
- Individual jurisdiction checks,
- Individual determinations.

This causes staggering delays and prevents mass, efficient resolution. It is disgraceful to the mass of individuals to endure these delays.

Government Action Required

- Amend AFCA legislation to allow streamlined, bulk, or representative determinations in mass-harm events.
- Provide a legislative model similar to remediation frameworks used by major banks.
- Create a new "Systemic Collapse Response Framework" empowering AFCA to accelerate outcomes.
- Seek legislative approval to allow complaints against trustees relating to due diligence failures.

Issue 3: AFCA Under-Resourced for a Collapse of This Scale

Even though only a fraction of affected victims have lodged a complaint to AFCA to date AFCA confirmed:

- They have needed to build new teams rapidly.
- Staff are working weekends to push through "lead decisions."
- Case managers are limited relative to the thousands of cases lodged.
- Communication departments are also overwhelmed.

Government Action Required

- Approve surge funding for AFCA dedicated to large-scale collapse events.
- Support a temporary task force focused solely on First Guardian/Shield.
- Provide short-term staffing injections for assessment, documentation, and communications.

Issue 4: InterPrac's Jurisdictional Challenges Are Stalling the Entire Pipeline

AFCA advised:

- InterPrac (a solvent advice licensee) is actively challenging AFCA's jurisdiction.
- These challenges are delaying the first "lead determinations" for all InterPrac cases.
- Delays in these lead matters stall the entire downstream case pipeline.

Government Action Required

- Reform the Corporations Act/AFCA Rules to require stronger cooperation from licensees.
- Introduce penalties for tactical delays or refusal to cooperate with AFCA processes.
- Provide AFCA with a mechanism to escalate systemic non-cooperation directly to ASIC for enforcement action.

Issue 5: Lack of Clarity on AFCA's Power to Compensate in Full When Investments Are in Liquidation

AFCA confirmed there is no clear, consistent framework for how compensation should operate when an investment is already in liquidation. Historically, AFCA has required an advice firm or licensee to take over the units of the failed investment, effectively removing the investor from the collapse and compensating them in full. This approach has allowed consumers to be restored to their position before the failure, irrespective of what ultimately happened in the liquidated fund.

However:

- Under the current CSLR legislative structure, there is no equivalent mechanism.
- CSLR is restricted to a $150,000 cap and does not have the ability to require a firm to take over units or provide full compensation.
- This creates a two-tiered compensation model, where consumers whose determinations fall under CSLR receive significantly less than consumers whose determinations were against solvent firms.

This inconsistency undermines fairness and creates confusion among complainants, advisers, and AFCA itself.

Government Action Required

- Provide statutory clarity on AFCA's authority to order full "unit takeover" compensation even when an underlying investment is in liquidation.
- Amend CSLR legislation to allow:
  - Equivalent compensation frameworks,
  - A pathway for full compensation where AFCA rules in the consumer's favour,
  - Fairness between complainants whose licensees are solvent versus insolvent.
- Create a harmonised compensation model ensuring that liquidation status does not determine whether a victim receives full redress.

Issue 6: Lack of a Formal Protocol for MP / Ministerial Communications to AFCA

AFCA confirmed:

- Only written MP enquiries are flagged in their internal system.
- Verbal contacts, even from Ministers, may not be recorded.
- This creates inconsistency and the risk of perceived or real inequity.

Government Action Required

- Create a formal, mandated protocol for how AFCA must process, record, and respond to all parliamentary enquiries.
- Ensure transparency and prevent accidental prioritisation based on informally relayed communications.

Issue 7: Confusing Multi-Entity Complaint Requirements for Ordinary Consumers

AFCA's framework requires separate complaints against:

- Financial advisers,
- Trustees,
- Platforms,
- MIS operators.

This is overwhelming for retirees, non-English speakers, the unwell, and vulnerable victims.

Government Action Required

- Create a **"single-point-of-lodgement"** model for mass failures.
- Introduce a coordinated AFCA/ASIC/Trustee triage system for large-scale collapses.
- Provide government-funded support services for complainants who cannot navigate the process alone.

Issue 8: Insufficient Communication Resources within AFCA

AFCA agreed that:

- Communication with victims has not been adequate.
- Many complainants receive no updates for months.
- AFCA has insufficient staff dedicated to proactive communication.
- Complainants are not advised of their place in the que, causing complaints to continue, uncertainty and undue anxiety.

Government Action Required

- Provide AFCA with funding for a dedicated communications and well-being support unit for this collapse.
- Require periodic public updates (monthly or quarterly) for impacted consumers.
- Introduce a transparent queue-position system (e.g., "you are complaint 354 in the queue") so complainants can track their place in line and reduce anxiety caused by uncertainty, particularly when AFCA cannot meet its advertised timelines

Issue 9: No Formal Hardship Prioritisation System

AFCA can prioritise hardship cases (e.g., elderly or seriously unwell), but:

- There is no formal hardship framework.
- Complainants must self-advocate without guidance.
- Many vulnerable individuals are slipping through the cracks.

Government Action Required

- Introduce an AFCA-hardship guideline specific to mass collapse events.
- Mandate transparent prioritisation for vulnerable cohorts.
- Provide additional government-funded hardship case management capability.
- Hardship cases related to Shield/First Guardian are yet to be processed.

Issue 10: CSLR Timing Rules Remain Unclear

AFCA could not confirm:

- Whether CSLR payments require liquidation to be complete.
- Whether lost earnings can be considered.
- How timelines will operate.

Government Action Required

- Provide clarity in CSLR legislation regarding:
  - When CSLR must pay,
  - Whether CSLR can pay before liquidation,
  - Whether lost earnings are included or excluded.
  - CSLR to take ownership of the First Guardian /Shield Units to allow early payout.

Recommendations for Ministerial Consideration

1. Establish a First Guardian/Shield Recovery Taskforce across AFCA–ASIC–Treasury.
2. Provide additional emergency funding to AFCA for:
   - Case managers
   - Communication staff
   - Document processing
3. Introduce legislation enabling batch/streamlined determinations in mass-harm events.
4. Mandate liquidator cooperation and fund retrieval of client files.
5. Strengthen licensee obligations to cooperate with AFCA investigations.
6. Create a single-entry complaints pathway for large-scale collapses.
7. Develop a formal hardship-prioritisation framework.
8. Provide statutory clarity around CSLR timelines and advance-payment authority, and introduce a transparent queue-position system (e.g., “you are complaint 354 in the queue”) to reduce uncertainty where AFCA cannot meet advertised timelines
9. Implement a uniform protocol for documenting MP/Ministerial enquiries.
10. Clarify AFCA’s authority to compensate in full when investments are in liquidation and align CSLR rules so equivalent compensation is possible.

These are all government systemic issues, not AFCA failures.

To deliver faster and fairer outcomes for 12,000 affected Australians, government support and reform are essential.

I welcome the opportunity to discuss these points in further detail or contribute victim perspectives to any working group or reform process.

s 22 s 22

First Guardian Master Fund Investor
SOS Save Our Super

UPDATE: My Meeting with AFCA 27th November 2025

Hi everyone,
I wanted to share an update from my recent meeting with AFCA about how our First Guardian / Shield complaints are being handled. The primary focus was on their process, fairness, and why so many of us feel left in the dark.

I met with s 22 s 22 Head of Legal & s 22 of the Government Relations Team at AFCA to understand why the complaint process appears inconsistent and to push for transparency and fairness for all investors. As I've helped many people lodge their AFCA complaints, I had concerns of differing dates, progress, and case manager allocations across the board, which is why I wanted clarity on how their process actually works.

AFCA's 1st Step is a "prep team" for 'unrepresented' individuals

An '**unrepresented**' individual is someone who has lodged their complaint on their own
Individuals who are **'represented'** are individuals going through a Law firm or a Professional, like s 22 s 22

AFCA said they've set up a special **"readiness/prep team"** just for First Guardian / Shield complaints.

- This team only contacts people who do NOT have a representative.
- Their job is to:
    - Call unrepresented complainants
    - Help gather documents
    - Get files "ready" before a case manager is allocated

- AFCA acknowledged they are still to contact the 'represented' individuals via their representative.

AFCA explained that from the outside, this looks like some people are moving ahead of others. This is actually not the case as after the 'prep team' has assisted individuals to ensure documentation is in order, they go back into the queue in the position they were originally in to be processed in a chronological order.
AFCA confirm that the majority of what we're seeing are **prep calls** and **rules/jurisdiction checks**, not full investigations yet.

This should help AFCA with efficiency to move through the cases so that once they arrive to a case manager, they are ready to be considered with all the documentation on file.

Are 'represented' complainants being pushed to the back?

I told AFCA how, being a 'represented case' It looks like if you have a representative, you get pushed to the back of the queue.
AFCA said their rule is to allocate **chronologically**, with some exceptions (hardship, jurisdictional rules cases), and they've promised to look at the data I gave them to see if something has gone wrong. I also raised a serious fairness issue:

- Smaller claims (that will be fully covered by the **CSLR $150k cap**) seem to be moving ahead.
- Larger claims risk missing out on extra compensation if PI insurance is being used up on earlier, smaller cases.
- Example – Person A under $150k should be channelled through CSLR, while Person B over $150k should be prioritised to go via PI Insurance – This would only be applicable with cases involving InterPrac.

In simple terms:
If AFCA pushes "CSLR-safe" cases through first, they risk "robbing s 22 to pay s 22 Person A will be whole regardless, yet person B is at more risk of a lower amount if PI insurance is used up on cases under $150k.

I have provided AFCA with Data from over 100 Investors to confirm with me that if fairness is being applied

InterPrac, lead cases & why it's so slow

AFCA also told me:

- InterPrac is the only solvent advice firm in this mess.
- InterPrac is challenging AFCA's jurisdiction and aspects of the complaints.
- Because of this, the first "lead cases" against InterPrac are slower and more complicated.

Until those lead decisions are finalised:

- Many InterPrac complaints (including mine) are effectively stuck, even if they look active from the outside.

AFCA insisted they are working on:

- Lead decisions for each firm (UGC, InterPrac, etc.)
- Resource increases
- Ad Hoc weekend work, where possible to try to move things faster.

Missing SOAs & liquidators not helping

I also raised the practical issue that many of you are facing:

- Lost SOAs and documents
- Elderly or unwell investors who can't find things on their computers
- Liquidators and firms saying, "We've already sent those documents once; we can't afford to dig again."

AFCA said:

- They are requesting documents from both complainants and liquidators.
- Liquidators are pushing back due to cost and underfunded liquidations.
- AFCA has raised this problem with ASIC , and ASIC is aware it is slowing things down.

My view was very clear:
When liquidators obstruct or drag their feet, they are adding to people's stress and harm, and there should be consequences for that.

Test cases vs bulk remediation

I asked why AFCA can't simply say:
"Everyone who went via Aus Super Compare → InterPrac → First Guardian gets the same outcome."
AFCA's answer:

- AFCA is a dispute resolution scheme, not a remediation program.
- They are bound by legislation and rules that require them to look at each complaint individually.
- Lead decisions help set the pattern, but every case still needs its own assessment.

My view – Which does not change anything, as this requires law reform:
The rules are stopping fair, efficient outcomes for 12,000+ people, and these rules need to be addressed at the government immediately.

Determinations so far

What I was informed:

- There have been over 100 determinations against UGC (some from earlier failed products).
- Those people then go to CSLR for payment (subject to CSLR's own timelines).
- For First Guardian / Shield-related entities other than UGC, AFCA has not published determinations yet.

AFCA publishes decisions on its website, but de-identifies the consumer to protect privacy.

- You can search for the United Global Capital decisions here: Search Determinations · Customer Self-Service
- Here is a UGC decision that involves First Guardian: Determination For Case 12-25-233017 · Customer Self-Service

So for the majority of us, still no final decisions.

Communication & what needs to change

I have expressed to AFCA that one of the biggest issues for investors is:
"We just want to know what's happening" Living in the unknown is causing elevated frustrations
AFCA agreed that better communication is needed and said they're considering:

- Updating website FAQs
- More webinars / Q&A
- Using their prep team calls for more process explanations

Next steps

- AFCA has promised to:
  - Check whether complaints are being allocated as fairly as they say.
  - Confirm the status of determinations for non-UGC entities.
  - Look at the issues around missing documents and liquidators.
  - Consider further communication (especially around Christmas).

We had a few minutes left to answer some of the questions Investors asked of me.

SHORT Q&A SUMMARY

1. Why does AFCA seem to be holding back on determinations?
Answer: AFCA says they're not holding back, the process is complex, information is missing in many cases, and they're working within strict rules.
2. How have cases been grouped?
Answer: To this point, cases have been grouped by **firm** and then worked through **chronologically**.

3. Why do some cases look like they're progressing out of order?
Answer: They're not. Different teams handle different adviser groups (e.g., UGC, InterPrac), which creates the appearance of uneven progress.

4. Can AFCA fast-track cases where ASIC has already banned the adviser?
Answer: No. ASIC bans do not speed up AFCA's process.

5. If successful, do we have to wait for liquidation to be completed?
Answer: Determinations go to **CSLR**, a different body. AFCA agreed to ask the CSLR to confirm whether liquidation must finish before CSLR pays out.

6. Does AFCA need more resources to move quicker?
Answer: Yes. They've increased staffing but say they could always use more.

7. What happens when a complainant can't get their SOA?
Answer:

- AFCA requests the file from the liquidators.
- Liquidators often say they've already supplied what they have.
- Retrieving more documents costs money they don't have.
- AFCA has raised this issue with ASIC because it slows investigations.

8. How are lead cases chosen?
Answer: Lead cases are selected to represent different fact patterns within the batch, so one decision can guide many similar cases.

9. Are lead cases randomly selected?
Answer: No. They are chosen deliberately based on the scenario they represent.

10. After lead cases are done, is the whole batch approved at once?
Answer: No. Every case is still assessed individually due to AFCA's rules.

11. Have any Shield or First Guardian complaints received a determination yet?
Answer:

- **UGC cases:** Yes, over 100 determinations with compensation awarded.
- **Shield/First Guardian (non-UGC): No determinations yet.** AFCA will reconfirm.

12. Do complainants have to wait for liquidation to end before compensation?
Answer: AFCA believes this is handled by **CSLR**, not them; they will confirm.

13. Liquidators not providing documents, what is AFCA doing?
Answer:

- AFCA is actively chasing liquidators.
- They've raised the issue with ASIC.
- They acknowledge it slows everything down.

Final word

I know a lot of you are exhausted, frightened and angry. You are not just numbers on a page.

I will keep pushing, with AFCA, ASIC, MPs, Treasury and the media, but I'll also keep sharing what I'm told so you can see how the system is working (or not working) in real life.

If you have questions, you'd like me to keep raising with AFCA, drop them in the comments below. If I cannot answer them from my meeting notes, I'll do my best to get the answer for you.

s 22 s 💚
SOS Save Our Super

From:	First Guardian Queries
To:	s 22 s - Save Our Super; info@fincomplaints.com; s 22 hotmail.com; s 22
Subject:	ASIC/AFCA – Meeting with investor representatives [SEC=OFFICIAL]
Start:	Monday, 15 December 2025 2:30:00 PM
End:	Monday, 15 December 2025 3:30:00 PM
Location:	ASIC Sydney Office (room 5.004) and ASIC Perth Office

Dear s 22 s and s

We confirm our meeting at 2.30pm AEDT (11.30am AWST) on Monday, 15 December 2025, at the following ASIC office locations:

ASIC's Sydney Office
Level 5
100 Market Street
Sydney 2000

ASIC's Perth Office
Level 1
11 Mounts Bay Road
Perth 6000

We look forward to meeting with you.

Kind Regards,

Australian Securities and Investments Commission
[ASIC logo]
[cid:image002.jpg@01DC6907.584819C0]
ASIC acknowledges the Traditional Owners of the lands and waters on which we live and work. We pay respect to Elders past and present as the custodians of the world's oldest continuing cultures.

Please consider the environment before printing this document.

Information collected by ASIC may contain personal information. Please refer to our Privacy Policy<https://asic.gov.au/privacy/> for information about how we handle your personal information, your rights to seek access to and correct your personal information, and how to complain about breaches of your privacy by ASIC.

This e-mail and any attachments are intended for the addressee(s) only and may be confidential. They may contain legally privileged, copyright material or personal and /or confidential information. You should not read, copy, use or disclose the content without authorisation. If you have received this email in error, please notify the sender as soon as possible, delete the email and destroy any copies. This notice should not be removed.

From: s 22 s 22
To: s 22 s 22 s
Cc: s s 22 s 22 s s s
Subject: RE: Facebook page re ASIC/AFCA meeting [SEC=OFFICIAL]
Date: Wednesday, 8 October 2025 2:55:53 PM
Attachments: image003.png
image004.png
image005.jpg
Questions for AFCA & ASIC.pdf
image001.png

Hi s 22 and s 22
We've drafted some responses to the attached additional questions for ASIC (on page 3) in the form of an email from s 22 to s 22
Would you mind please reviewing the draft responses when you can?
Responses to investor group questions post AFCA-ASIC meeting.docx
Many thanks

s 22
s 22
Senior Specialist
Enforcement & Compliance
Australian Securities and Investments Commission
Level 20, 240 Queen Street, Brisbane, QLD, 4000
Mob: s 22
s 22 s 22 asic.gov.au
ASIC logo

From: s 22 s
Sent: Sunday, 28 September 2025 10:20 PM
To: s s 22 ; s 22 s 22 ; s 22 s 22 ; s 22 s 22 ; s 22 s 22
Cc: s 22 s 22 ; s s 22 ; s 22 s 22 ; s 22 s 22
Subject: Facebook page re ASIC/AFCA meeting [SEC=OFFICIAL]

s 22 s
Admin
·8h ·

AFCA Meeting Update – Summary for Members:

(Please see attached PDF with my prepared questions and responses from AFCA, these were prepared pre the Macquarie announcement)

Firstly, I would like to thank s 22 s 22 the Executive Director of Enforcement & Compliance for ASIC, for arranging this meeting to address concerns I had raised approximately a week earlier. In attendance also from ASIC was s 22 s 22 Senior Executive Leader – Financial Advisers and Investment Management. Appreciation goes out to the 3 Senior members of AFCA who made a specific flight to Sydney to meet with us.

s 22 s 22 Deputy Chief Ombudsman, s 22 s 22 Head of Legal and s 22 s 22 Lead Ombudsman, Investments & Advice.

Thursday's meeting with AFCA (& ASIC) was long and often frustrating. While some progress was shared, including confirmation that complaints are now being processed, in particular that UGC and NextGen cases have been reinstated, many answers were long-winded, leaving little time for several key questions that remain unanswered.

AFCA admitted early mistakes in how complaints were handled and confirmed that some previously closed cases may be reopened, depending on, whether they have additional rights over and above the remediation. AFCA confirmed they would look into it. They also stressed that their service is free and that people do not need lawyers to lodge a complaint.

Despite these commitments, there is still no clear, fast pathway to compensation for most victims, and trustee accountability remains a major unresolved issue.

My top 4 takeaways from the meeting indicate positive steps forward.

1. Macquarie Compensation Deal:

Victims on Macquarie's platform will receive 100% of their net capital invested (70% inside super, 30% outside) a significant and immediate recovery, without waiving any legal rights OR future claims for loss in growth via AFCA (But for.)

2. AFCA Progressing Complaints:

AFCA confirmed it is not waiting for court cases to finish and has reinstated UGC and NextGen complaints**,** issued lead decisions**,** and resumed case assessments, a shift from early delays. Time will tell. I believe there are still unanswered questions around why complaints against Interprac have not been processed.

3. Focus on Vulnerable Victims:

AFCA agreed to fast-track complaints for retirees, people facing hardship, illness, or homelessness, recognising the human impact and need for urgent relief. If you are in a vulnerable position you do need to let AFCA know as soon as possible- in writing. I would be very pleased to hear from any victims with Interprac who are in a vulnerable position, as I believe this still needs to be monitored.

4. Improved Communication & Support:

AFCA is committed to clearer communication (FAQs, document checklists, dedicated contacts), a public webinar (23 Oct**)**, and stronger messaging that its service is free**,** aiming to reduce confusion and exploitation by lawyers. I have raised concerns directly with ASIC in regards to two law firms that appear to be targeting FGMF victims and charging up to $20k on a no-win-no-fee basis for AFCA Complaints – Not advising customers this is a free service and does not require a lawyer, as AFCA staff are trained to assist.

Areas that left me unsatisfied

1. No Unified Compensation Pathway:

ASIC and AFCA operate in separate silos; ASIC focuses on oversight, enforcement and deterrence, while AFCA handles individual client disputes. There is no coordinated government-led scheme for broad restitution, other than AFCA and the CSLR. In saying this, I do believe 100% both agencies genuinely want to see a resolution to this that falls in the favour of the victims; however, I can't help but feel they are restrained by unspoken politics and regulatory constraints. Raising the question as to why Jim Chambers has not updated the Statement of Expectations since 2021.

2. Trustee Accountability Unanswered:

AFCA did not provide a clear plan for holding Equity Trustees, Netwealth, or Diversa accountable for their ongoing fiduciary duties. AFCA stated it was still early in the process, leaving a major gap in victim redress.

3. Early Complaint Handling Failures:

Many trustee complaints were initially dismissed or closed due to jurisdictional issues, and victims were often redirected, misinformed, or delayed, causing significant frustration and loss of trust. A firm commitment is still required that these cases will be reopened, as you have 1 opportunity to submit a complaint against an entity (unless there is significant new evidence).

4. Long Timelines Still Likely:

AFCA admitted complaints could still take many months or years to resolve due to volume, legal complexity, and jurisdictional overlaps, risking a 2–5 year wait for many victims. I strongly do not believe this is excusable and question if these delays are strategic, and if they meet AFCA's own standards of fairness.

5. No Broader Government Response:

Unlike disaster responses (e.g., bushfires), there is no coordinated government action to support affected families, no emergency payments, welfare interventions, or cross-agency assistance,

despite the scale of financial devastation. These are the points I also raised in our meeting with Mr. s 22 s 22

Regards,

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ASIC logo

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Questions for AFCA

1. AFCA's charter is to provide consumers and small businesses with **free, fair, and independent resolution of disputes** with financial firms. How is it fair to consumers or industry participants when AFCA won't help victims complete complaints or direct their complaints to the right entity? We have received many stories of victims of Shield and First Guardian being redirected, having complaints refused due to unreasonable timeframes or generally frustrated by AFCA. There are more than 12,000 people with the same challenges. This confusion is being exploited by lawyers, advisers and other people charging a percentage of successful claims or upfront fees because of the difficulty imposed by AFCA. The complaints and issues are uniform among many thousands of people. Why is AFCA avoiding its obligation and dealing with consumers in such an unfair manner? *AFCA said it can't give individual guidance or draft complaints due to jurisdiction limits and court rulings (e.g., DH Flinders), but it's expanding general guidance: updated website FAQs, a document checklist, and a 23 Oct webinar. They've stopped auto-closing super complaints, reinstated UGC/NextGen membership for six months, and will prioritise vulnerable cases. AFCA will also highlight that its service is free and monitor predatory fee practices, while improving timelines and clearer communications.*

2. Will AFCA wait for the conclusion of all ongoing and future litigations (against planners, trustees, advisers, etc.) before making determinations on complaints? AFCA gave a very firm *No. AFCA confirmed it is not waiting for any litigation to conclude and is already processing complaints, including reinstating cases like UGC and NextGen.*

    - If yes, how is that consistent with AFCA's mandate for timely resolution when this process could take many years?

3. Why is AFCA holding complaints "in abeyance" pending ASIC investigations or court actions, when the complaints are about financial advice and trustee failures, not the fund managers ASIC is targeting? *AFCA explained that complaints were not being held back and that the issues were due to the complexity and volume of complaints.*

    - Is this effectively denying victims the ability to obtain compensation through AFCA? AFCA gave a very firm *No.*

4. How is AFCA addressing the ongoing duty of Equity Trustees, Netwealth, and Diversa to act in the best interest of unitholders when they remain trustees, even in liquidation?

    No, this question was not directly answered. AFCA acknowledged jurisdictional limits with trustee-related complaints but did not provide a clear response on how it is addressing the ongoing duties of Equity Trustees, Netwealth, or Diversa while they remain trustees

- Why are trustee complaints being dismissed rather than assessed?

Partially — AFCA said some early trustee complaints were closed because they fell outside its jurisdiction (e.g., about fund management or frozen assets). However, it has since stopped closing these complaints and is now keeping them open while it reassesses jurisdiction and awaits further developments.

- Why are some claims denied on AFCA guidelines, yet those that could be processed under AFCA guidelines are stalled?

AFCA explained that early delays were due to the high volume and complexity of complaints and uncertainty around jurisdiction. Now that key issues (like UGC membership and Macquarie outcomes) are clearer, AFCA says it is progressing eligible complaints and improving communication and transparency about delays.

Joint Questions

1. Why do AFCA and ASIC appear to be operating in silos, ASIC prosecuting, AFCA stalling, leaving victims with no timely path to redress? *Different mandates + legal limits: **ASIC** is pursuing enforcement/deterrence and court-set standards; **AFCA** can't give individual advice and, early on, paused some matters due to jurisdiction/volume/complexity and double-recovery risks. AFCA says it's now progressing cases (lead decisions, UGC/NextGen reinstated) and won't wait for litigation to complete.*

2. What formal coordination exists between ASIC and AFCA to ensure victims are not trapped in this "no-man's land"? *, This was not properly addressed, however. working-level coordination and information-sharing: AFCA appears to align its approach with ASIC developments (e.g., Macquarie resolution), to avoid double compensation, again appearing to contradict that they are not holding up processing claims based on legal proceedings.*

3. What is the clear pathway today for an investor in First Guardian/Shield to actually achieve compensation or restoration of superannuation?

- *If on Macquarie platform (Shield): receive 100% net capital invested (70% in-super swap + 30% outside super), rights preserved.*
- *Lodge/maintain AFCA complaints—especially against advisers—using AFCA's doc checklist; ask for expedited if vulnerable.*
- *Seek records from advisers/liquidators, file proofs of debt.*
- *Where advisers are insolvent, pursue CSLR after an AFCA determination.*
- *Consider (case-by-case) claims for lost insurance, non-financial loss, and professional costs not covered by Macquarie.*
- *AFCA explained that early delays were caused by the complexity and volume of complaints, the need to clarify jurisdictional boundaries, and uncertainty around ongoing investigations, court actions, and outcomes such as the Macquarie resolution. (contradicting that they were not waiting on ASIC to process claims) They also noted they were initially cautious to avoid double compensation and to understand how different parties, advisers, trustees, and platforms might be held responsible. Now that key issues are clearer, AFCA says it is actively progressing cases. I believe we should have more transparency on the progress of these cases.*
- *AFCA did not provide a clear or specific timeline for processing complaints when I asked. They said it would depend on the nature and complexity of each case, the amount of information available, and which "bucket" the complaint falls into (e.g. UGC, Interprac, Trustees). They promised to gather and share more accurate timeframe information, potentially on their website, but no concrete dates or estimates were given during the meeting.*
  (In general, complaints are being processed in the order they were received, following their usual procedure.) If what we are told is to be accurate, then we should expect to see complaints other than UGC being processed.

4. Who is accountable for ensuring that the compensation pathway is not blocked for the next 2- 5 years?

   Due to a lack of time, this question was not covered

5. This is an unmitigated financial disaster. In 2019-2020, the Black Summer bushfires destroyed 3094 homes, and in that case, Centrelink and other government departments were marshalled to assist stricken families. The number of families directly impacted is nearly 4 times higher, yet there has been no coordinated activity between any government department to identify families in immediate distress and provide support. WHY?

- *Outside ASIC/AFCA's remit, Treasury/government would need to legislate any compensation/relief framework (ASIC cited ACBF/Trio as precedents). The agencies present could not commit to cross-department relief, making this a political decision, not a regulatory one.*

Questions for ASIC (These questions were not addressed)

1. There seems to be no focus on resolution despite the fact that many of the parties involved in this, from trustees to the advisers, are focused on assisting with recovery or making compensation payments. Why is ASIC not facilitating mediated outcomes or compensation schemes for victims?
2. ASIC's values state that professionalism is "working in the best interests of ASIC" How does this align with the ASIC Act?
3. The public is now concerned that ASIC was not just aware of the issues raised by Shield and First Guardian but that senior investigators had personal relationships with lawyers involved with these companies and avoided investigating them as a result. Is there an internal investigation underway?
4. Has ASIC considered directly compensating investors for its own role in this disaster?
5. Why are the current Superannuation trustees still managing assets when they may be liable for damages to investors? Should APRA/ASIC instruct those trustees to transfer management of these superannuation investors to an independent trustee?
6. If settlements could be structured by converting units into other government-approved or trustee-managed products (rather than cash payouts), why hasn't ASIC pushed for this practical pathway?

Prepared by s 22 s 22 **on behalf of the Victims of the First Guardian & Shield Fund Collapse**



Investor Group Meeting

Reponses to post-meeting questions

[Proposed to be sent as an email from s s 22 to s 22

Dear s 22

ASIC was pleased to meet with you and others from SOS along with AFCA on 25 September 2025. I hope you found the meeting productive and the information helpful.

I understand there were some additional questions for ASIC that we did not have time to cover during the meeting, which were included in the attached document. I set out brief responses to these questions below. I will leave them with you to consider whether to share them with the broader SOS Facebook group.

Regards, s

1. **There seems to be no focus on resolution despite the fact that many of the parties involved in this, from trustees to the advisers, are focused on assisting with recovery or making compensation payments. Why is ASIC not facilitating mediated outcomes or compensation schemes for victims?**

   While ASIC is not a consumer complaints handling body, ASIC's priority has been to secure any assets we can for future recoveries and to hold to account the people responsible through enforcement action.

   ASIC is also working closely with AFCA to assist consumers navigate the AFCA complaints process and additional information has been published on ASIC's dedicated Shield and First Guardian webpages in relation to how complaints can be made and against which entities.

   ASIC has accepted a court enforceable undertaking from Macquarie Investment Management Limited to return 100% of the amounts invested in Shield to affected members less any amounts withdrawn. More information on this can be found at 25-215MR Macquarie admits to Shield contraventions and commits to pay affected members | ASIC.

   ASIC has also amended its ~~proceedings~~ claim against Equity Trustees Superannuation Limited seeking compensation orders against Equity Trustees for losses resulting from the alleged failures by Equity Trustees in making the Shield Master Fund available on its superannuation platforms. More information can be found at 25-176MR ASIC sues Equity Trustees alleging due diligence failures relating to Shield | ASIC (see in particular Editor's Notes 3 and 4).

2. **ASIC's values state that professionalism is "working in the best interests of ASIC" How does this align with the ASIC Act?**

   ASIC's role under the ASIC Act is to:

   - maintain, facilitate and improve the performance of the financial system and entities in it;

- promote confident and informed participation by investors and consumers in the financial system;
- administer the law effectively and with minimal procedural requirements;
- receive, process and store, efficiently and quickly, information we receive;
- make information about companies and other bodies available to the public as soon as practicable; and
- take whatever action we can, and which is necessary, to enforce and give effect to the law.

ASIC's values, including accountability, professionalism and teamwork, guide the way our staff work. For employees of ASIC, ~~W~~working in the best interests of ASIC ~~includes~~ means ~~helping~~ assisting ASIC to fulfil its role under the ASIC Act.

ASIC's Code of Conduct, available on ASIC's website, also sets out standards of behaviour and expectations for how our people act, solve problems, and make decisions. While working in the best interests of ASIC, team members must:

- comply with lawful and reasonable directions given to them;
- put ASIC's best interests above their own personal interests; and
- work collaboratively to achieve the best outcomes.

3. **The public is now concerned that ASIC was not just aware of the issues raised by Shield and First Guardian but that senior investigators had personal relationships with lawyers involved with these companies and avoided investigating them as a result. Is there an internal investigation underway?**

ASIC is not aware of any allegations of inappropriate conduct or conflicts of interest in relation to our investigations into the Shield and First Guardian matters, nor is there any internal investigation into such alleged conduct or conflicts. If you are aware of specific instances informing this question, please let me know.

4. **Has ASIC considered directly compensating investors for its own role in this disaster?**

ASIC cannot provide compensation to investors nor is ASIC responsible for losses suffered by investors as a result of breaches of the law. ASIC is committed to holding people to account when they do the wrong thing.

5. **Why are the current Superannuation trustees still managing assets when they may be liable for damages to investors? Should APRA/ASIC instruct those trustees to transfer management of these superannuation investors to an independent trustee?**

ASIC's first and foremost priority in relation to the Shield and First Guardian matters is to preserve any remaining investor assets, so they can be recovered and returned to investors wherever possible. This principle underpins our engagement and informs our approach to litigation and remediation action (such as ASIC's proceedings against Macquarie and Equity Trustees). ASIC does not have unfettered power to direct a superannuation trustee to transfer member funds to an alternative trustee. As mentioned in response to question 1 above, ASIC has taken necessary and appropriate enforcement actions within its remit which are intended to directly address what ASIC considers to be serious breaches of the law.

Commented [S]: This is intended to directly address question 5. @S 22 S can you please consider?

From: s 22 s
To: s s 22
Cc: s 22 s s 22 ;s s 22 s s 22
Subject: RE: Lead generators - brief s 22 [SEC=OFFICIAL:Sensitive]
Date: Tuesday, 3 February 2026 4:17:12 PM
Attachments: image002.gif
image003.jpg
image004.png

Hi s 22
Sorry I am a bit confused. Are we talking about my media release? It doesn't have any case studies and isn't really relevant to the SOS group.
Happy to discuss.

s 22 s 22
Senior Manager, Financial Advice and Investment Management
Regulation & Supervision
Australian Securities and Investments Commission
Level 20, 240 Queen Street, Brisbane, 4000
Tel: s 22
s 22 s 22 asic.gov.au

(Please note that I work flexibly at different times of the day. I do not expect that you will respond to this email outside your usual working hours)

ASIC logo

ASIC acknowledges the Traditional Owners of the lands and waters on which we live and work. We pay respect to Elders past and present as the custodians of the world's oldest continuing cultures.

From: s 22 s 22
Sent: Tuesday, 3 February 2026 2:50 PM
To: s 22 s 22
Cc: s 22 s ; s 22 s 22 ; s 22 s 22
Subject: Lead generators - brief s 22 [SEC=OFFICIAL]

Hi s
We just got off the phone to Super Consumers Australia about the lead generator announcement that s 22 is leading and I'm assisting with.
s 22 from SCA advised that given the cohort of people involved and the fact we will be intending to use case studies, it may be worth pre-briefing the head of the SOS Save Our Super advocacy group, s 22 ahead of the announcement on Tuesday 10 Feb (I believe that's the date everyone's working towards) on the contents of the announcement.
While SCA isn't intending to ask s 22 to be a case study in this respect, it may be worth consideration to brief her ahead of time.
I don't know who holds that relationship inside ASIC.
Thanks

s 22
s 22

Senior Manager, Enforcement Communications
Australian Securities and Investments Commission
Level 7, 120 Collins St, Melbourne VIC 3000
s 22
s 22 s 22 asic.gov.au



From: s 22
To: s 22 s 22 s 22 s 22 s 22
Cc: s 22
Subject: RE: s 22 s filenote of investor meeting with A-T [SEC=OFFICIAL]
Date: Friday, 3 October 2025 1:05:57 PM
Attachments: pdf.pdf
image002.jpg
image003.jpg
image007.png
image008.png
image009.jpg
image010.png

Hi s 22
We've had a go at adding some more content to the responses.
We've left a few comments for your consideration.
I'm not sure if you've seen the notes of the outcome of ASIC's meeting with the SOS consumer group (**see attached**) which may also assist in clarifying what was discussed.
Regards

s 22
Investigator
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s 22 asic.gov.au

ASIC logo

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From: s 22 s 22
Sent: Thursday, 2 October 2025 4:27 PM
To: s 22 ; s 22 ; s 22
Subject: RE: s 22 filenote of investor meeting with A-T [SEC=OFFICIAL]

Hi s
Yes please – but feel free to add/edit any of them.
Thanks again

s 22
s 22
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s 22 s 22 asic.gov.au

ASIC logo

From: s s 22 <s s 22 asic.gov.au>
Sent: Thursday, 2 October 2025 3:36 PM
To: s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>
Subject: RE: s 22 filenote of investor meeting with A-T [SEC=OFFICIAL]
Just confirming s 22 it was only Qs 3, 5 & 6 you wanted some input on?
Regards

s s 22

Investigator
Enforcement & Compliance
Australian Securities and Investments Commission
Level 5, 100 Market Street, Sydney NSW 2000
Tel: s 22 | s 22
s s 22 asic.gov.au

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From: s 22 s 22 <s 22 s 22 asic.gov.au>
Sent: Thursday, 2 October 2025 3:08 PM
To: s 22 s 22 <s 22 s 22 asic.gov.au>; s s 22 <s s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>
Subject: RE: s 22 filenote of investor meeting with A-T [SEC=OFFICIAL]

Thanks, s 22 .

Cheers

s 22
s 22
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Mob: s 22
s 22 s 22 asic.gov.au

ASIC logo

From: s 22 s 22 <s 22 s 22 asic.gov.au>
Sent: Thursday, 2 October 2025 11:13 AM
To: s 22 s 22 <s 22 s 22 asic.gov.au>; s s 22 <s s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>
Subject: RE: s 22 filenote of investor meeting with A-T [SEC=OFFICIAL]

I can have a look at from about 2 onwards.

s

From: s 22 s 22 <s 22 s 22 asic.gov.au>
Sent: Thursday, 2 October 2025 11:01 AM
To: s s 22 <s s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>
Subject: FW: s 22 filenote of investor meeting with A-T [SEC=OFFICIAL]

Hi all

As mentioned this morning, there are some additional questions from the Investor Group that s 22 would like us to prepare answers on (last page of the attached document).

I've set up a word doc here and entered some text as a starting point: Responses to investor group questions post AFCA-ASIC meeting.docx

Would you mind having a go at answering?

Many thanks

s 22
s 22
Senior Specialist

Enforcement & Compliance
Australian Securities and Investments Commission
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s 22 s 22 asic.gov.au
ASIC logo

From: s 22 s <s 22 s 22 asic.gov.au>
Sent: Tuesday, 30 September 2025 6:51 AM
To: s s 22 <s 22s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>
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Subject: s 22 filenote of investor meeting with A-T [SEC=OFFICIAL]

Another file note by s 22 published on the website attached.

UPDATE TO MEMBERS: Investor Meeting with Mr s 22 s 22

In our first meeting with ASIC in late August, we expressed our disappointment that we had not heard from the Treasury's Office (particularly when s 22 had sent SO MANY emails).

As a clear demonstration of the communication between ASIC and the Treasury's office, I received a call from s 22 s 22 at ASIC a week after the meeting, asking if he could pass my number on to Mr s 22 office, as they would like to organise a time for a private meeting.

I mention this as I believe it's just as important to convey the good work that is being done by ASIC. We have every right to be angry at the injustice of the situation we are facing; no one will take that from you! I truly believe that if we want to achieve more tomorrow, we must first be grateful for the small but meaningful steps we benefit from each day.

We didn't receive all the answers I had hoped for to the solutions I put forward, but what we did achieve was the opening of a clear and constructive line of communication with the government. And for that, I am genuinely grateful. It's an important step forward, and together we will keep pushing for the outcomes we all deserve.

The meeting with Assistant Treasurer s 22 s 22 was constructive and filled with a clear sense of empathy and dedication to understanding the depth of pain and uncertainty that thousands of victims are living with. I remained firm and persistent in presenting practical solutions, not as a bailout, but as a **"Pay Now, Recover Later"** approach that I strongly believe is both fair and responsible. This model recognises the systemic failures that allowed this crisis to happen, including what many see as ASIC's delays in acting on red flags and the regulatory loopholes that enabled cold callers to pressure people into unsuitable MIS products, while ensuring that victims are supported now, and costs are recouped later from those responsible. The conversation was an important step forward, and I will continue to advocate relentlessly for meaningful action and accountability. Mr s 22 has opened the door for another catch-up to take place in 4 weeks, in which I will keep you posted.

Please see my attached PDF, which was sent through to Mr s 22 before our meeting. I have made notes around the responses on each topic that was discussed.

A solution was not agreed on; however, that does not mean ASIC and Treasury are not working towards the best possible outcome for us all.

#sossaveoursuper

#saveoursuperfgmfcollapse

Regards,

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From: s 22 s

Sent: Sunday, 28 September 2025 10:20 PM

To: s s 22 <s 22s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>; s 22 s 22 <s 22 s 22 asic.gov.au>

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Subject: Facebook page re ASIC/AFCA meeting [SEC=OFFICIAL]

s 22 s

Admin

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AFCA Meeting Update – Summary for Members:

(*Please see attached PDF with my prepared questions and responses from AFCA, these were prepared pre the Macquarie announcement)*

Firstly, I would like to thank s 22 s 22 the Executive Director of Enforcement & Compliance for ASIC, for arranging this meeting to address concerns I had raised approximately a week earlier. In attendance also from ASIC was s 22 s 22 Senior Executive Leader – Financial Advisers and Investment Management. Appreciation goes out to the 3 Senior members of AFCA who made a specific flight to Sydney to meet with us.

s 22 s 22 Deputy Chief Ombudsman, s 22 s 22 Head of Legal and s 22 s 22 Lead Ombudsman, Investments & Advice.

Thursday's meeting with AFCA (& ASIC) was long and often frustrating. While some progress was shared, including confirmation that complaints are now being processed, in particular that UGC and NextGen cases have been reinstated, many answers were long-winded, leaving little time for several key questions that remain unanswered.

AFCA admitted early mistakes in how complaints were handled and confirmed that some previously closed cases may be reopened, depending on, whether they have additional rights over and above the remediation. AFCA confirmed they would look into it. They also stressed that their service is free and that people do not need lawyers to lodge a complaint.

Despite these commitments, there is still no clear, fast pathway to compensation for most victims, and trustee accountability remains a major unresolved issue**.**

My top 4 takeaways from the meeting indicate positive steps forward.

1. Macquarie Compensation Deal:

Victims on Macquarie's platform will receive 100% of their net capital invested (70% inside super, 30% outside) a significant and immediate recovery, without waiving any legal rights OR future claims for loss in growth via AFCA (But for.)

2. AFCA Progressing Complaints:

AFCA confirmed it is not waiting for court cases to finish and has reinstated UGC and NextGen complaints**,** issued lead decisions**,** and resumed case assessments, a shift from early delays. Time will tell. I believe there are still unanswered questions around why complaints against Interprac have not been processed.

3. Focus on Vulnerable Victims:

AFCA agreed to fast-track complaints for retirees, people facing hardship, illness, or homelessness, recognising the human impact and need for urgent relief. If you are in a vulnerable position you do need to let AFCA know as soon as possible- in writing. I would be very pleased to

hear from any victims with Interprac who are in a vulnerable position, as I believe this still needs to be monitored.

4. Improved Communication & Support:

AFCA is committed to clearer communication (FAQs, document checklists, dedicated contacts), a public webinar (23 Oct**)**, and stronger messaging that its service is free**,** aiming to reduce confusion and exploitation by lawyers. I have raised concerns directly with ASIC in regards to two law firms that appear to be targeting FGMF victims and charging up to $20k on a no-win-no-fee basis for AFCA Complaints – Not advising customers this is a free service and does not require a lawyer, as AFCA staff are trained to assist.

Areas that left me unsatisfied

1. No Unified Compensation Pathway:

ASIC and AFCA operate in separate silos; ASIC focuses on oversight, enforcement and deterrence, while AFCA handles individual client disputes. There is no coordinated government-led scheme for broad restitution, other than AFCA and the CSLR. In saying this, I do believe 100% both agencies genuinely want to see a resolution to this that falls in the favour of the victims; however, I can't help but feel they are restrained by unspoken politics and regulatory constraints. Raising the question as to why Jim Chambers has not updated the Statement of Expectations since 2021.

2. Trustee Accountability Unanswered:

AFCA did not provide a clear plan for holding Equity Trustees, Netwealth, or Diversa accountable for their ongoing fiduciary duties. AFCA stated it was still early in the process, leaving a major gap in victim redress.

3. Early Complaint Handling Failures:

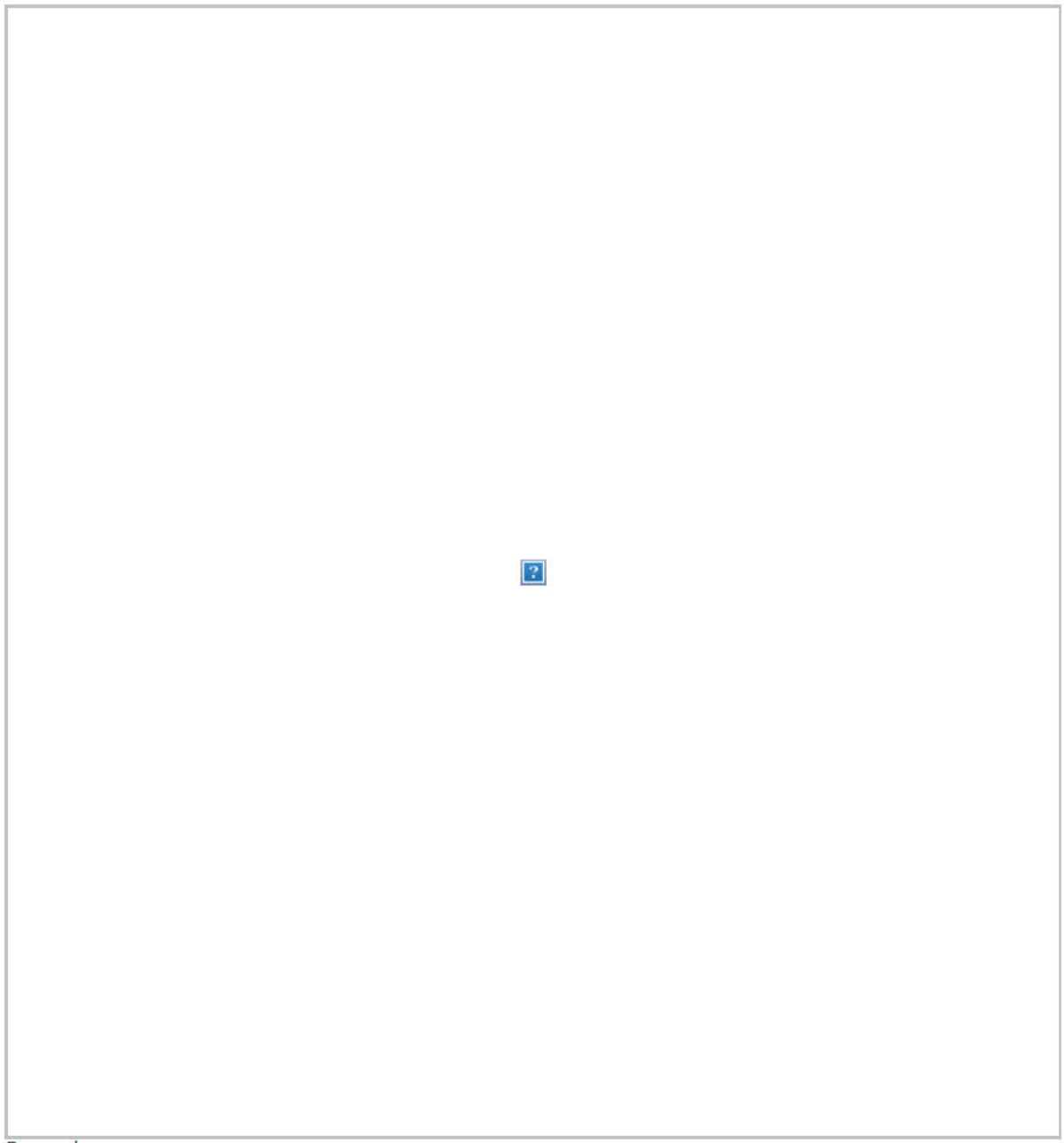
Many trustee complaints were initially dismissed or closed due to jurisdictional issues, and victims were often redirected, misinformed, or delayed, causing significant frustration and loss of trust. A firm commitment is still required that these cases will be reopened, as you have 1 opportunity to submit a complaint against an entity (unless there is significant new evidence).

4. Long Timelines Still Likely:

AFCA admitted complaints could still take many months or years to resolve due to volume, legal complexity, and jurisdictional overlaps, risking a 2–5 year wait for many victims. I strongly do not believe this is excusable and question if these delays are strategic, and if they meet AFCA's own standards of fairness.

5. No Broader Government Response:

Unlike disaster responses (e.g., bushfires), there is no coordinated government action to support affected families, no emergency payments, welfare interventions, or cross-agency assistance, despite the scale of financial devastation. These are the points I also raised in our meeting with Mr. s 22 s 22



Regards,

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Objectives of the ASIC Meeting

1) Enforcement strategy & how it benefits victims

What they said

- Priority one was asset preservation (freezing orders; appointing receivers/liquidators).
- Running parallel investigations across the whole chain: lead generators, advisers and their AFS licensees, research houses, super trustees (EQT case already filed; others under investigation), and the underlying funds/operators.
- Two tracks of action:
    - Civil (ASIC can bring these directly: penalties, bans/disqualifications, and potential compensation orders if they can prove loss flowed from breaches).
    - Criminal (ASIC compiles briefs for the CDPP to prosecute; ASIC can't prosecute crimes itself).

How this helps victims

- Freezing preserves what's left for potential distribution.
- Civil cases may include court-ordered compensation (not guaranteed; depends on legal tests).
- Criminal referrals deter misconduct but don't pay victims directly.

Status

- Partially answered. Clear outline of tools, targets, and the "why," but no concrete timeline or named next defendants beyond EQT.

2) Does ASIC accept accountability for regulatory failures?

What they said

- Acknowledged limits in the law: MIS registration is a 14-day, box-ticking process; ASIC must register if formal criteria are met (no ex-ante risk gate).
- Said early intelligence (2020–23) pointed to selling/mis-selling issues; the later discovery of misuse/misappropriation of funds came via search warrants, which then triggered liquidation.
- Emphasised risk of acting "too early" (can cause runs on funds).

Bottom line

- Partially answered. ASIC recognises structural limits and sequencing but did not concede fault or "regulatory failure." Framed delays as evidence-development rather than inaction.

3) Make clear that ASIC may be liable for damages for failure to act

What they said

- Did not accept any ASIC liability. Reiterated ASIC's mandate is law enforcement, not a compensation body.
- Focused on actions against regulated entities (trustees, advisers, etc.), not on ASIC's own exposure.

Bottom line

- Not accepted / Not answered in your favour. No acknowledgement of ASIC liability; no pathway offered for claims against ASIC.

4) Secure a commitment to restitution pathways for victims

What they said

- Options ASIC is exploring:
    - Seek compensation orders off the back of civil actions (e.g., potentially in the EQT matter) if causation and loss can be proven.
    - Enforceable undertakings (EUs) that include remediation, possible, but only if the entity agrees; ASIC says it can't "bargain away" enforcement for remediation.
- Civil penalties vs victims: if a court imposes a penalty, ASIC would prioritise investors by not enforcing penalties where that would drain funds that could go to victims. Judges must also consider investor loss before setting penalties; the result could be a zero penalty to preserve money for victims.
- AFCA/CSLR: ASIC supports lodging complaints (esp. against advice firms to keep CSLR access alive). Noted CSLR funding model is under Treasury review; caps remain ($150k) and are limited.

Bottom line

- Partially answered. ASIC gave principles (prefer compensation over penalties; consider seeking compensation orders; explore EUs). No hard commitment to an EU or to pursue compensation orders in specific cases yet, and no guaranteed funding pool for victims.

5) Ensure reforms to prevent recurrence

What they said

- Highlighted legislative constraints (e.g., MIS registration rules) and said they've been public about needed reforms.
- Discussed Treasury consultation on CSLR special levies beyond advisers (signals broader industry funding for valid claims in future).
- Agreed to improve public guidance (more forward-looking info on "what happens next") and open a channel with AFCA (including exploring test-case handling).

Bottom line

- Partially answered. Process-improvement steps (better info; AFCA engagement) and pointers to government-led reforms, but no ASIC-owned policy change (because many levers sit with Parliament/Treasury).

Key clarifications ASIC provided (useful talking points)

- Why liquidation: ASIC says asset values were unrealistic and funds were being depleted by expenses; liquidation aimed to stop further loss, even if account balances looked healthy on paper.

- Penalty money cannot go to victims under current law; the work-around is to seek no/low penalties so more money remains for compensation.
- Compensation orders in civil cases are possible but complex (causation/loss proof required).
- AFCA strategy: ASIC's generic advice was "complain against all relevant firms," but they took on board your concerns about clogging AFCA with non-jurisdictional trustee complaints and agreed to talk to AFCA and facilitate a meeting (including exploring test cases).
- Trustee ORFR/insurance: too early; becomes relevant only if trustees accept or are ordered to compensate.

What's still missing (follow-ups)

1. Named next targets & timing beyond EQT (Macquarie, Netwealth, Diversa, etc.).
2. Whether ASIC will, in fact, seek compensation orders in the EQT case (and others), and when.
3. Concrete plan with AFCA (structure, timing, and scope of test cases, and a clear lodgement strategy that avoids auto-knock-backs.
4. Public, forward-looking roadmap page (milestones, what to expect next, decision points).
5. Government liaison outcomes (Treasury/Minister engagement on CSLR capacity, special levies, or any ex-gratia options).

Practical next steps (action list for members)

- Channel with AFCA: Expect ASIC to revert on setting up a joint meeting with AFCA about test-case handling, loss assessment, and correct respondent strategy. Prepare 6–8 clean test files now (identical SOA patterns; mix of super-platform and SMSF pathways).
- Complaint targeting: Prioritise complaints against advice firms/licensees (to preserve CSLR access), and file targeted trustee complaints only where jurisdiction is clear (avoid auto fast-track knock-backs).
- Document losses: Keep consolidating evidence of loss and causation chains per trustee/adviser to strengthen any court-ordered compensation ask.
- Public info feedback: Send ASIC a short memo listing the 5 most confusing areas on their website and 5 forward-looking questions investors need answered.
- Government pressure: Continue the Treasury/Minister push for (a) CSLR top-ups beyond advisers and (b) any levy/ex-gratia mechanism to bridge gaps while litigation proceeds.

Summary of Outcomes as per our objective

- Enforcement strategy: ASIC is freezing assets, investigating the whole chain, running civil cases (EQT filed) and preparing criminal briefs; compensation may be sought via courts or EUs, case by case.
- ASIC accountability: They acknowledged legal limits and timeline sequencing, but did not accept regulatory fault.
- ASIC liability: No, ASIC did not accept or suggest any liability to victims.
- Restitution commitment: Principled, not concrete, they'll prioritise compensation over penalties and are considering compensation orders/EUs, but no firm commitments yet.
- Prevention/reform: Some improvements to guidance and AFCA coordination; broader fixes require Treasury/Parliament. CSLR funding model under review.

Questions regarding Oversight & Accountability: How ASIC answered

1) Why did ASIC allow First Guardian / Falcon to operate despite red flags (governance, liquidity, opacity)?
ASIC's answer (in summary):

- The law gives ASIC only a limited gate at registration: MIS registration is a 14-day, box-ticking process; ASIC is required to register schemes that meet formal criteria and can't run ex-ante risk assessments.
- Early intelligence (2020–2023) focused on selling/mis-selling practices (lead generators, cold-calling, advice/licensee issues), not on misuse/misappropriation inside the fund. The latter emerged later through search warrants and evidence gathering.
  What that means: They're saying the legal framework hamstrung early intervention at the scheme level, and the "fund misconduct" evidence arrived late.
  What's missing: No explanation of why visible governance conflicts (e.g., RE/manager overlap) didn't trigger earlier supervisory escalation.

2) What complaints/reports did ASIC receive before Feb 2025, and how did it respond?
ASIC's answer (in summary):

- Acknowledged emails/alerts (e.g., 2021–2022 material you referenced) but said those pointed to sales/mis-selling issues; ASIC pursued surveillance and actions across advisers/licensees in that period.
- The new, decisive evidence (misuse of funds) came after search warrants, which then led to the liquidation strategy.
  What that means: They distinguish between "we knew about dodgy sales" vs "we later proved fund-level misuse," claiming proportionate responses to each phase.
  What's missing: A concrete log of exactly which reports they received, when, and what action each triggered.

3) Why intervene only after the collapse rather than proactively?
ASIC's answer (in summary):

- Acting too early can spark a run on a fund; they must balance harm.
- They intervened (freezes/receivers/liquidators) once evidence showed inflated valuations/depletion of assets and that continued operation would harm investors more.
  What that means: Their threshold for heavy intervention is hard evidence of fund harm, not just mis-selling signals.
  What's missing: Any measurable intervention thresholds (e.g., triggers, KRIs) that could be shared publicly.

4) How does ASIC explain oversight failure across trustees, licensees, advisers, and research houses?
ASIC's answer (in summary):

- They did not characterise it as ASIC oversight failure. They described a "complex web" of actors and said they are investigating each link (lead gens → advisers/licensees → research houses → super trustees → underlying funds).
  What that means: Focus on industry participants' accountability, not ASIC's.
  What's missing: A candid self-assessment of where ASIC's supervisory model under-reached (e.g., trustee due diligence oversight, research-house reliance).

5) Will ASIC acknowledge systemic regulatory failure rather than isolating blame?
ASIC's answer (in summary):

- No acknowledgement was expressed relating to failures to act sooner. They cited statutory limits (e.g., MIS registration settings) and pointed to Treasury/Parliament for reform; reiterated ASIC's role is enforcement, not compensation.
  What that means: ASIC did not accept "regulatory failure"; framed the problem as legal design + complex misconduct.
  What's missing: Any institutional acknowledgement (e.g., "we should have escalated sooner on X").

6) What other options were available short of liquidation?
ASIC's answer (in summary):

- Said they weighed up the alternatives (including administration) but concluded liquidation was best, given unrealistic valuations and asset leakage via expenses; keeping funds operating would worsen investor outcomes.
  What that means: They defend liquidation as the least-harm choice once evidence was in hand.
  What's missing: A side-by-side of options considered (admin vs receivership vs enforceable undertakings) with criteria and modelling.

7) Is ASIC adequately resourced for enforcement/supervision?
ASIC's answer (in summary):

- Not directly answered. They stressed the matter is a big priority with "lots of people on it," and referenced broader CSLR/Treasury processes. No resourcing figures or gaps were given.
  What that means: No clear resourcing assurance, only that the case is prioritised.
  What's missing: Any statement on headcount, budget sufficiency, or capability uplifts tied to MIS/trustee oversight.

Our takeaways for the Investors

- Legal constraints (MIS registration, proof thresholds) and evidence timing are ASIC's core defence for not acting earlier.
- They won't concede ASIC liability or "regulatory failure."
- They defend liquidation as necessary once asset overstatement and depletion are identified.
- They promise continued investigations across the chain and consider compensation orders/EUs, but no concrete commitments yet.
- AFCA coordination and clearer, forward-looking public updates are promised; systemic reform sits largely with Treasury/Parliament.

AFCA complaints

ASIC were very encouraging about lodging AFCA complaints. Their advice was to complain against all possible targets (advisers, licensees, trustees, etc.) so at least one avenue might stick.

We pushed back on this. Our concern is that AFCA is already overloaded, many complaints are stuck for months without case managers, and trustee complaints are being fast-tracked and then dismissed on jurisdictional grounds. ASIC's response was that while they can't direct AFCA, they agreed these were valid concerns and promised to speak directly with AFCA about:

- Test case options (so groups of similar SOAs could be dealt with together rather than individually), and
- Clarifying complaint strategies so people don't waste their "one shot" on the wrong target.

So, complaints are still encouraged – but we made clear that the current process is confusing and frustrating, and ASIC acknowledged the need to work on this with AFCA.

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LinkedIn - https://www.linkedin.com/company/sos-saveoursuper/

GoFundMe - https://gofund.me/badd8f466

Website - http://sossaveoursuper.com.au/
(under construction – this is where you find updated/Steps to follow/ Progress on Fundraising/ Progress on Litigation

Partition - https://chng.it/QBYzNNmPFm - Ensure government compensation for collapsed superannuation funds

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