



## **Re: Urgent Regulatory Action Required – Submission on CS 37 and ASIC’s Failure to Prevent Digital Mis-Selling of Superannuation and Investment Products**

**Submitted by:** Australian Fiduciaries Limited

**Date:** 17 January 2026

**Submitted via:** ASIC Consultation Hub

Dear ASIC Consultation Team,

We write on behalf of victims of the Australian Fiduciaries Limited (AFL) fraud, which resulted in the theft of our superannuation savings. We appreciate the opportunity to comment on CS 37 and proposed updates to Regulatory Guide 234 — however, our lived experience demonstrates that ASIC’s current approach remains dangerously insufficient.

Our group represents hundreds of Australians who have suffered catastrophic financial loss due to misleading digital advertising of superannuation products and ASIC’s slow, unclear, and reactive enforcement posture.

**We are calling for immediate, concrete regulatory action — not incremental guidance updates that fail to address the root causes of ongoing harm.**

### **Key Concerns and Required Actions**

#### **1. ASIC’s 2026 Enforcement Priorities Ignore Critical Misconduct**

While ASIC has prioritised cases such as First Guardian and Shield, which affected 12,000 people, our group of approximately 600 victims — who experienced *the same type of harm* on a significantly higher scale (average investment seven times higher than First Guardian and Shield investments) — has been given no enforcement priority, no communication, and no meaningful support.

Repeated attempts to engage ASIC and relevant ministers have been ignored through generic and ineffective responses.

#### **2. Digital Advertising of Superannuation Products Is a National Consumer Harm Vector**

Digital ads on platforms like Facebook allowed AFL to target vulnerable Australians with misleading claims, cloaking aggressive sales tactics as social-good investments such as NDIS housing.

Many members lost previous super savings during COVID, and were seeking stable, socially responsible retirement outcomes — not speculative schemes. ASIC’s existing communications were so inadequate that many victims missed their AFCA complaint window entirely.

#### **3. Mandatory Regulatory and Restorative Interventions Are Needed Now**

The Government requires all Australians to hold superannuation. Therefore, ASIC has a heightened duty to protect compulsory retirement savings from deceptive marketing and sham operators. Current protection is failing.

## **Our Recommendations (Immediate Action Requested)**

### **1. Total Ban on Digital and Social Media Advertising for Superannuation & Investment Products**

ASIC must take the strongest possible position by implementing a complete prohibition on the use of Facebook and similar digital platforms for promoting superannuation, investment and retirement products. This mirrors the harm-minimisation approach taken in tobacco, gambling, and prescription drug advertising. The risk to compulsory superannuation savings is too great to tolerate continued exposure to targeted digital manipulation.

### **2. Mandatory Licensing & Pre-Vetting for All Firms Engaged in Digital Promotion of Financial Products**

ASIC should introduce a licensing regime requiring any entity involved in online promotion — including accounting firms, affiliate marketers, comparison sites, and introducers — to undergo:

- Fit-and-proper person tests
- Pre-approval of all creative and targeting materials
- Mandatory disclosure of digital ad spends and channels
- Retention of all advertising records
- Clear consumer redress processes

If financial advisers must be licensed to give personal advice, then firms spending millions to influence financial decision-making online should be held to at least the same standard.

### **3. Prohibition of Simulated Comparison or “Switch” Platforms**

Digital “comparison” sites like *Compare Your Super* misled consumers by simulating impartial comparison tools. ASIC must prohibit such platforms unless they provide:

- Full disclosure of ownership, domain and ABN
- Wide product coverage — including *all* superannuation products, not just MySuper
- Independently verified ranking methodologies
- Plain-English explanations of both methodology and conflicts of interest

ASIC must close loopholes that allow private operators to misrepresent marketing as advice or comparison.

### **4. Victim-Centred Enforcement and Redress Framework**

ASIC should urgently adopt enforcement mechanisms that prioritise victim restoration, including:

- **Reverse-switching powers** to unwind harmful super switches induced by deceptive online advertising
- **Restitution obligations** for firms that benefited from misleading ads
- **Mandated referral pathways** to AFCA, Scamwatch, and legal support services
- **Immediate extension of AFCA complaint windows** for AFL victims
- **Exploration of CDDA compensation** due to regulatory failure and extreme consumer harm

ASIC’s role must shift from slow, resource-heavy investigations to **rapid, survivor-informed protection and remediation**.

## **Why ASIC Must Act Now**

The harms arising from digital advertising of financial products are not theoretical — they are ongoing, widespread, and well-evidenced. AFL is only one example of a systemic and escalating risk that ASIC’s current guidance cannot meaningfully mitigate.

Without decisive regulatory reform:

- More Australians will lose compulsory retirement savings
- Digital manipulation will continue unchecked
- Vulnerable consumers will be disproportionately targeted
- Public trust in financial regulation will continue to erode

ASIC must take a leadership role in addressing this emerging and dangerous threat.

**Requested ASIC Actions (Summary)**

We urge ASIC to immediately:

1. **Ban all digital advertising for superannuation and investment products**
2. **Mandate licensing and rigorous oversight of all firms involved in digital financial promotion**
3. **Prohibit misleading comparison tools and landing pages**
4. **Adopt a victim-centred enforcement and redress model**
5. **Extend AFCA complaint windows and initiate CDDA consideration for AFL victims**

These reforms are essential to restoring confidence in Australia’s financial regulatory framework and protecting consumers before harm occurs.

We welcome the opportunity to provide further details, evidence, or impact statements to support this submission.

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