ASIC

Australian Securities & Investments Commission

**REPORT 240**

# Compensation for retail investors: the social impact of monetary loss

May 2011

## About this report

This report was commissioned by ASIC's Consumer Advisory Panel and produced by Susan Bell Research.

It explores the social impact of investors not being fully compensated when they suffer financial loss because of their licensee's misconduct.

# Compensation for retail investors: the social impact of monetary loss

## ASIC's Consumer Advisory Panel

May 2011

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AMSRO

# Susan Bell Research

Susan Bell Research is a market and social research agency, based in Sydney.

Our client base includes government and commercial organisations who seek to incorporate into their decision-making a perceptive understanding of consumers, their customers or community.

We are committed to the international standard for market and social research and as such are ISO 20252 certified.

We are a member of Australian Market and Social Research Organisations (AMSRO) and therefore bound by the Market and Social Research Privacy Principles.

Our research teams are members of Australian Market and Social Research Society (AMSRS) and therefore bound by the AMSRS code of conduct.

Susan Bell is the Director of Susan Bell Research. She is a highly experienced market and social researcher and is a graduate of Linguistics, English, and Psychology. She is QPMR accredited[1] with AMSRS.


# Acknowledgements

Thank you to those who kindly gave up their time to take part in this study.


[1] QPMR stands for Qualified Practising Market Researcher.

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# Executive Summary

## Background and research approach

Following a number of high profile failures of financial services firms, the Parliamentary Joint Committee on Corporations and Financial Services (PJC)[2], recommended in February 2009 that the Australian Government investigate the costs and benefits of a statutory compensation scheme[3].

Such a scheme would compensate consumers and investors, as a means of last resort, for financial losses suffered as a result of the wrongdoing of their financial services provider, i.e. an Australian Financial Services (AFS) licensee.

In April 2010, the Australian government announced the appointment of Mr Richard St John to conduct a review into the need for such a scheme[4].

On consumer protection issues, the Australian Securities and Investments Commission (ASIC) regularly consults with a Consumer Advisory Panel (CAP), comprising 10 members representing a diverse range of consumer and investor interests[5].

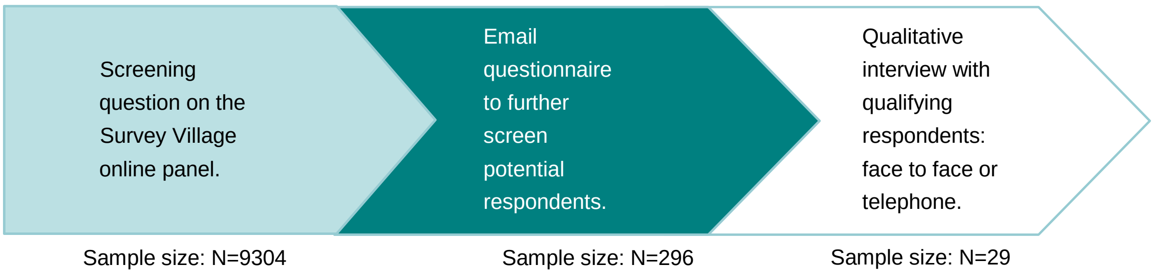
As part of CAP’s work for 2010–2011, CAP decided to commission independent research into the social impacts of consumers and investors not being fully compensated for financial loss, such loss arising from their AFS licensee’s ‘misconduct’. In October 2010, CAP commissioned Susan Bell Research to conduct this research.

The research aimed to understand:

- The experiences of consumers and investors who were not fully compensated for this kind of financial loss within the last 10 years,
- How investors chose to recover compensation (if at all) and what that experience was like,
- The impact of these experiences, including social impacts and the potential effects on consumer confidence.

**Research approach**

Susan Bell Research designed a three-stage study which used quantitative and qualitative research methods. The process is shown below, with the sample size for each stage.




[2] See: http://www.aph.gov.au/senate/committee/corporations_ctte/fps/index.htm

[3] See Recommendation 10, Parliamentary Joint Committee on Corporations and Financial Services Report – Inquiry into financial products and services in Australia, p 156.

[4] See: http://futureofadvice.treasury.gov.au/content/Content.aspx?doc=reforms.htm

[5] For more information about CAP, see: http://rbaaln1:8008/asic/asic.nsf/byheadline/ASIC%27s+Consumer+Advisory+Panel?openDocument

The purpose of the Stage 2 email questionnaire was to screen out people who had lost money simply due to the global financial crisis. The 29 investors who took part in the final interview lost money through the failure of managed investment schemes, or because of financial advice deemed to be inappropriate for their circumstances. Further details on this process are available on page 17 of the main report.

The findings in this report refer to the investors who were interviewed personally (N=29) unless otherwise specified.

# Key research findings

The main finding of this study is that failure to fully compensate investors who lost money because of the conduct of their managed investment scheme or financial planner can cause the investor severe emotional and financial distress. The second key finding is that investors were unable to fully utilise the current compensation system. Thirdly, the loss experience can have a corrosive effect on trust in the financial system. These findings are explained in summary form below, starting with the impact of the initial monetary loss.

## Monetary loss

How much investors were affected by the loss of their money depended on how much the investor had relied on the investment, what proportion of the total investment was lost and / or whether or not the investor borrowed to invest.

**The impact of the loss was made more severe by lack of diversification, and because of debt**

Some investors were more affected than others. The investors who were most severely affected by their initial financial loss were those left without any reserves or financial buffer. They had:

- Invested all the money they had, or
- Invested in an undiversified investment, or
- If the bank made a margin call on the loan, the investor was in no position to pay it. (See Part 1)

One lesson, then, is the continued need to educate investors about how to invest safely.

**Investors received very little information**

Investors were given very little information at the time of their loss about why it occurred and what to do about it. Some investors learnt of the loss through the mass media, or when their distributions stopped coming. Some received letters from the scheme owners, or from administrators. Financial planners provided very little information to the clients who took part in this study, refusing to take or return phone calls.

**Some impact was immediate**

For the investors without reserves, the impact of the loss was immediate. They needed to pay a margin call, or they suddenly found themselves without money to live on, or in some cases without anywhere to live and therefore were unable to get work. Their situation then got worse, as their credit card debit escalated.

For the remaining investors, the first six months (from when they discovered their loss) were critical. During this period, they realised that they could not cope with some usual household expenses, such as car insurance, car repairs, or Christmas presents. In some cases, credit card debt started to escalate. Problems have lasted several years in some cases.

## Use of the existing avenues of compensation

As an obligation of their licence, AFS licensees must have a compliant dispute resolution system for handling client complaints. This system must consist of internal dispute resolution (IDR) procedures, so consumers and investors can complain directly to their licensee and membership of an ASIC-approved external dispute resolution (EDR) scheme.

So licensees have sufficient funds to pay out compensation claims that may be made as part of a complaint, AFS licensees must also have adequate compensation arrangements. This usually involves having an appropriate professional indemnity insurance policy to call on.

### Little knowledge of the existing avenues of compensation

Most of the investors we spoke to did not know about the available avenues of compensation, because they could not contact the scheme owners of funds which were placed into administration or liquidation to enquire or make a complaint.

In all but one case, the financial planners provided no information about complaint mechanisms to these investors, refusing to return their calls, or placating the investors by saying that their loss had been caused by the market downturn.[6] The one case we have of an IDR process was a bank which exonerated its financial planner and apparently provided no information to the investor about the possibility of going to EDR.[7] Therefore, most investors were unaware they could complain to EDR.

These results suggest that consumers need to be given a better way to learn about dispute resolution schemes. Investors need help understanding when they can make a complaint and how to make it.

### Reluctance to instigate legal action

In all but two cases, investors in the study avoided instigating individual private legal action partly because they blamed themselves and partly because they were unwilling to risk losing more money by taking legal action themselves, especially when they believed that they would have to go further into debt to finance it.

However, two investors from a sample of 29 started legal action against their financial planner or bank. One case ended in mediation after a period of 18 months. The other is ongoing. Some investors joined class actions, although none has yet resulted in compensation.

### Some money returned

Some investors who invested in Category A investments (see Figure 1), which were placed into liquidation, received some money back. The largest amount received back was 60c in the dollar. This was also the quickest, with a turnaround time of 6 to 9 months (even then, investors considered this to be slow).

Investors in Category B investments (see Figure 1) which were taken over by a new scheme owner have received very little compensation to date. Some three years or so after they failed, some investors recently received 3c–4c in the dollar, out of which they paid management fees.

[6] Our study excluded people whose losses were only attributable to the market downturn.

[7] Note: This would appear to not meet ASIC's requirements on having a compliant dispute resolution system, including giving written notification of the right to complain to EDR when the complainant is notified of the final outcome they are offered at IDR.

## The social and emotional impact of the loss

**Some suffered catastrophic loss**

Of the 29 investors who took part, 10 people (34%) told us that the impact of their loss was 'so significant their life will never be the same'. Six (20%) said that the loss changed their life 'a lot'.

Of these, five investors (17%) experienced an impact so extensive that we have called it 'catastrophic', because:

- They lost their homes or seemed about to do so. One couple moved into a caravan for a while; another lived in their car.
- All have been seriously ill since the loss, either a new illness or an existing one aggravated by stress.
- All went without food on occasion and in some cases without heating or cooling for their home since their loss.
- Too ashamed to tell any one of their plight, they have isolated themselves from friends and family.

Another eight investors (27%) cut back on their way of life to the minimum. Typically these had been self-funded retirees who were now on the pension, living a life of frugality.

The prolonged anger, uncertainty and worry left many of these people suffering from depression, even for those who have managed to stay afloat financially. One of the key reasons for these mental health problems has been a sense of powerlessness and isolation. Many of these investors felt that they themselves were partly to blame for their loss which has prevented them from seeking financial assistance, counselling or compensation.

The cost then has partly been at the private, individual level. There has also been an impact on families, particularly a long-lasting strain between some husbands and wives because one partner won't let the other forget that they had been the main instigator of the investment. Some parents have had to work multiple jobs or travel away from home to work, which has affected their children negatively.

The community will also bear some of the cost because of previously self-funded retirees now on the government pension, and because of the physical and mental health problems suffered by investors who now have no medical insurance.

## Impact on confidence in the Australian financial system

The investors interviewed for this study now distrust financial planners because of their experiences. The damage had two sources:

- suspicion that the financial planner recommended the investment for their own self-interest; and
- a sense of being abandoned by financial planners who failed to contact or support investors after the loss occurred.

Investors need help understanding the kind of behaviour that is expected of an AFS licensed financial planner, even when the investor has agreed to the investment.

Many now also distrust the government and regulators – specifically ASIC. They believe that ASIC should have protected inexperienced investors better, prevented new unscrupulous schemes operating; policed ongoing funds and schemes more rigorously and intervened earlier. Some of these beliefs reflect a misunderstanding of what ASIC can and does do to assist investors.

Many will never invest again. They now expect to put all their money 'in the bank'.

# About this research

**This section of the report describes the research objectives, and research design, and provides background information about failed investments and the compensation avenues available to investors.**

## Research objectives

The main objective of the research was to explore the social impact on Australian retail investors and Australian society more generally, when investors are not fully compensated for financial loss, such loss arising from the misconduct of their financial services provider. The specific objectives were to understand:

### Social impacts

- The nature and extent of the social and emotional impacts which occurred because of the investors' losses.
- The immediate – and where possible, the medium and longer term – impacts of these losses.
- The timing implications for when consumers and investors are compensated.
- The impacts on society, including the 'social cost'.

### Investor experiences

- How investors chose to use – or not use – the available avenues for compensation and why they did so. These avenues for compensation are: to lodge a complaint with their AFS licensee (i.e. access their internal dispute resolution (IDR) process) or an EDR scheme; to join a class action; to initiate legal proceedings on their own; or to complain to ASIC, who may be able to obtain compensation through its investigative or s50 class action powers.
- What the compensation experience is like for investors. How long it took and whether they were satisfied with the process and the outcome.
- What the experience was like for investors whose funds were placed into administration or liquidation.

### Impacts on investor confidence

- Whether investor confidence in the Australian financial system was impaired by investors not being fully compensated for their loss.

Having confident and informed investors participating in the Australian financial services industry is an objective that ASIC is entrusted with promoting.[8] ASIC seeks to do this in a number of ways – for example, by improving financial literacy and education, putting out consumer alerts and information, and taking compliance and enforcement action so financial services laws are met.

Confident and informed investors may be more likely to actively participate in the financial system, thereby encouraging a healthy and prosperous financial economy. They may also be more likely to invest and grow their own wealth, including making voluntary contributions to their superannuation savings so there is reduced reliance on the Age Pension to fund their retirement.[9]

[8] Section 1, *Australian Securities and Investments Commission Act (Cth) 2001.*

[9] The Australian retirement income system is based on three pillars – (1) the Age Pension (whereby low to middle income earners have a safety net in retirement, particularly where they have less than average full-time employment due to unemployment, carer responsibilities, etc); (2) compulsory superannuation savings through the Super Guarantee (which requires employers to contribute 9% of employee's wages to superannuation); and (3) voluntary superannuation contributions whereby individuals can choose to contribute more to their superannuation at a discounted tax rate. See *Retirement Incomes Strategic Issues Paper,* Section 2: Australia's Three-Pillar System.

# Background information

This section of the report provides background information about failed investments and the compensation avenues available to investors.

Some investors lost money because their investment products failed, perhaps because of some misconduct by the product issuer. In these cases, the investor may legally have someone to blame.

## Failed investments

Investments which failed are a matter of public record. They fall into two categories:

1) The investor bought a financial product from a financial product provider (AFS licensee), such as a managed investment scheme, which failed and was put into administration or liquidation.

2) Where the investor invested in a managed investment scheme (e.g. an agribusiness managed investment scheme) the scheme experienced financial difficulty but did not entirely fail:

   (a) In some cases a new scheme owner may take over the scheme, although this may still result in a loss to investors.

   (b) In other cases, the scheme's funds may be 'frozen' because it does not meet liquidity requirements i.e. it cannot pay investors who want to redeem their investments. Where this happens and the scheme's funds are frozen, investors who would usually have an ongoing or periodic right to redeem their investments may find that this right is suspended. (Note: investors in hardship may apply to be able to make special arrangements to access their money.)

## Inappropriate financial advice

This research also includes some investors who appear to have suffered a financial loss due to inappropriate advice, although the financial products they were advised to invest in did not actually fail. That is, the investment may not have been appropriate for the client (i.e. the investment may not have met the client's needs in other ways). Their loss occurred because of adverse economic and market conditions. However, their subsequent struggles occurred because they could not cope with the loss financially.

We included investors in this report if we considered the investor may have suffered loss as a result of misconduct or possible misconduct by their financial planner because:

- The investor's legal action against the financial planner was successful.
- The media reported legal action taken by another investor with a similar complaint, and the investor may be able to obtain a similar outcome if they pursue their claim.
- The investor was advised to borrow to invest despite lacking the funds or income to cope with a margin call.[10]
- The investor was advised by the financial planner to sell his or her home to invest (apparently without proper consideration of the risks).

[10] Note: recent amendments to the *Corporations Act (Cth) 2001* (Corporations Act) require that a margin loan must not be issued to an investor, or the margin limit increased, if it would be unsuitable (i.e. the investor cannot or is unlikely to be able to pay a margin call without experiencing substantial hardship). See s985K, Corporations Act.

**Figure 1:** **Ways investors lost their money between 2001–2010**

| No | Type of investment | How investors lost their money |
|---|---|---|
| 1 | Category A | 'Category A' investors invested their money in seemingly 'high return' property investment schemes established to build inner city apartments or units in Queensland, NSW and Victoria. Investors were effectively lending money to property developers (or to finance companies who on-lent it to such developers).<br><br>These investment schemes failed.<br><br>For some of these schemes, investors were not properly warned in disclosure documents of the risks of investing. Some of these schemes were also operating illegally because they were found to be managed investment schemes, but were not properly registered with ASIC.<br><br>For the many investors who invested in 'Category A' investments on the advice of a financial planner, the financial advice given was often inappropriate because the financial planner failed to properly warn their client of the risks of investing and the investment did not suit the client's risk profile.<br><br>ASIC took legal action in relation to a number of 'Category A' scheme operators (including directors and other related parties i.e. financial planners who were found to be at fault). Some investors also initiated private class actions. In this way, many investors were able to recoup some of the money they lost. |
| 2 | Category B | 'Category B' investors invested in mortgage investment schemes that did not totally fail.<br><br>These investors suffered a loss because they were unable to access the capital they initially invested because the fund was 'frozen' as the scheme did not have sufficient liquidity or cash flow. Some investors in financial difficulty or 'hardship' would have been able to access their investment for these reasons from October 2008.<br><br>Very few 'Category B' investors were placed in 'Category B' investments on the advice of a financial planner due to the direct marketing strategies employed by 'Category B' providers.<br><br>Many investors commenced private legal action against Category B providers to recover their loss. |
| 3 | Category C | 'Category C' investors invested in agribusiness, (i.e. forestry or horticultural) investment schemes. Under these schemes, investors purchased a right to grow trees or olives, for example, which was supposed to generate a return on their investment.<br><br>These investors lost their money because the scheme was operating at a loss and the scheme operator could not continue managing the scheme.<br><br>In some cases, where a new scheme owner was found, the scheme could continue to operate, but under new rules, so investors did not totally lose their initial investment. A re-calculated return (often lower than initially advertised) was able to be distributed among investors.<br><br>For other schemes, where a new scheme operator could not be found, the scheme had to be ended, which resulted in investors totally or partially losing their initial investment money. Where this was the case, how the land, trees and remaining monies should be divided between the banks (who had a secured interest) and investors became an issue. In some cases, these issues are yet to be resolved. |

| | | |
|---|---|---|
| 4 | Category D | ‘Category D’ investors invested in high risk structured investments (e.g. hedge funds and infrastructure funds) which failed because the underlying investment failed when debt markets dried up as a result of the GFC.<br><br>These investments were high risk and complex.<br><br>Some investors invested in these investments on the advice of financial planners.<br><br>Some investors commenced private class actions to recover their loss. In one case, FOS made a significant determination against a financial planner in favour of an investor. |
| 5 | Category E | ‘Category E’ investors took out margin loans on the advice of financial planners.<br><br>Often these investors were advised to borrow against their home and also borrow more under a margin loan, or to sell other assets (i.e. shares or investment properties) to focus their investment in the margin loan.<br><br>Due to falling markets as a result of the GFC, when a margin call was made, many of these investors could not pay the calls and lost their homes as well as their initial investment.<br><br>It seems that this investment did not suit the client’s risk profile and many of these investors were also inappropriately warned about investing in margin loans in a falling market. |

## Existing avenues for compensation

Investors have six avenues of possible compensation:

**Figure 2:** Possible avenues of compensation

| | Possible avenues of compensation | What this means |
|---|---|---|
| 1 | Internal dispute resolution (IDR). | Approach the organisation directly to complain and get a resolution. |
| 2 | EDR scheme. | There are currently two free ASIC-approved EDR schemes which are available for investors who used financial planners, as well as investors who used banks and other services.<br><br>**(1) The Financial Ombudsman Service Ltd (FOS)**<br><br>FOS handles complaints about banks (and their affiliates operating in Australia), credit unions and building societies, life insurance companies, superannuation providers, financial planners, life insurance brokers, stockbrokers, investment managers, friendly societies, time share operators, general insurance companies and their agents.<br><br>**(2) The Credit Ombudsman Service Ltd (COSL)**<br><br>COSL handles complaints about credit unions and building societies, non-bank lenders, mortgage and finance brokers and financial planners.<br><br>Note: Investors can also complain to the Superannuation Complaints Tribunal (SCT) which is a statutory body that deals with complaints about the decisions and conduct of superannuation providers, including trustees of regulated superannuation funds and approved deposit funds, retirement savings account providers and life companies providing annuity policies |
| 3 | Self-initiated private legal action. | The investor sues the financial planner or investment organisation in court or successfully obtains an outcome through private negotiation, mediation or arbitration. |
| 4 | Joining a private class action. | The investor chooses to start or join a class action where investors who suffered loss from the same type of misconduct bring a group action.<br><br>Such an action may be on a 'no-win, no-fee' basis, so investors do not have to pay legal fees unless they win. |

| | Possible avenues of compensation | What this means |
|---|---|---|
| 5 | Through the winding up of the company process – by an administrator or liquidator | Where a company may no longer be a viable business, an administrator or liquidator may be appointed to wind up the company.<br><br>In doing so, the administrator or liquidator will generally assess the liabilities/debt, assets and income of the company to work out whether the company can recover, be sold or needs to be wound down.<br><br>If the company is wound down, the administrator/liquidator will decide which creditors are paid out of the remaining assets or funds. Normally banks, with secured interests will have first priority in being paid out. |
| 6 | ASIC action: | Through:<br><br>• negotiations with the AFS licensee;<br><br>• legal action or other enforcement action; or<br><br>• a s50 ASIC Act class action (where ASIC runs a group action to obtain compensation for investors who suffered loss from the same type of misconduct. ASIC has to consider whether it is in the public interest to do so). |

# Research design

To meet the research objectives, Susan Bell Research designed a multi-method, multi-stage qualitative and quantitative research study.

**Figure 3:** Research method

| Research method | Reason for using | Method used |
|---|---|---|
| **Qualitative research** | Qualitative research methods were important for this study because our aim was to explore the depth and breadth of individual experiences with the various kinds of financial loss and the different compensation mechanisms that people experienced. | The main findings of this study came from N=29 qualitative interviews which were conducted face to face or by phone, with eligible investors. |
| **Quantitative research** | The methodology we used also allowed us to gain useful quantitative data, which tells us:<br>• The demographic characteristics of investors who lost money in the circumstances described in the Background Information section on page 12.<br>• The degree of impact on the lives of individuals and their families.<br>• The proportion of investors who sought compensation because of these kinds of losses. | An initial screening question was put to an established online research panel to identify respondents for an email questionnaire which was then used to identify eligible investors for the qualitative interviews.<br>The quantitative data presented in the report came from the responses to this email questionnaire. |

See the Appendix for more information about the research design, and copies of the initial screen question, email questionnaire and interview guide.

## The sample for the qualitative research stage

We interviewed N=29 investors in the qualitative stage of the project.

Throughout the report we draw a distinction between the different experiences of investors, depending on whether they invested in a fund which later failed; invested in a fund which struggled financially and was taken over by a new scheme owner; or by investors who had invested in shares or other listed investments on the advice of financial planner. The following table shows how many of the 29 investors who took part in the qualitative stage of the research fell into these different categories.

Thirteen investors invested in a fund directly. Sixteen invested following the advice of a financial planner. Some of these investments were on the share market, while others were in property trusts. Seven investors had some form of loan as part of their investment.

**Figure 4:** Type of investment

| Type of investment | Sales channel | Number of people interviewed |
|---|---|---|
| Property-based investment schemes or agricultural investment schemes (see Category A, B and C investments at Figure 1) which failed or were taken over by a new scheme owner. | Invested directly. | 13 |
| As above | Following the advice of a financial planner. | 6 |
| Shares or other listed investment. | Following the advice of a financial planner. | 2 |
| Shares or other listed investment plus loan – such as margin loan or line of credit. | Following the advice of a financial planner. | 8 |
| **Total** | | **29** |

# The investors who took part in this project

The following table provides some information about the investors who took part in this research.

**Figure 5:** The people we interviewed

| Number | Invested with / in | Gender | Age | Marital status | State | Regional or metropolitan [11] | Invested through a financial planner? |
|---|---|---|---|---|---|---|---|
| 1. | Category A | Female | 45–54 | Married | WA | Metropolitan | No |
| 2. | Category A | Female | 45–54 | Widowed / divorced | NSW | Regional | No |
| 3. | Category A & D | Female | 65–74 | Married | NSW | Metropolitan | Yes |
| 4. | Category A & B | Female | 45–54 | Married | NSW | Metropolitan | No |
| 5. | Category A | Male | 55–64 | Married | NSW | Regional | Yes |
| 6. | Category A | Female | 45–54 | Married | Vic | Metropolitan | No |
| 7. | Category A | Male | 65–75 | Married | Vic | Regional | No |
| 8. | Category B | Female | 35–44 | Married | NSW | Metropolitan | No |
| 9. | Category B | Female | 35–44 | Married | NSW | Metropolitan | Yes |
| 10. | Category B | Female | 45–54 | Widowed / divorced | Vic | Metropolitan | No |
| 11. | Category B | Female | 65–74 | Married | Qld | Regional | No |
| 12. | Category B | Female | 55–64 | Married | SA | Metropolitan | No |
| 13. | Category B | Female | 65–74 | Widowed / divorced | WA | Regional | No |
| 14. | Category B | Male | 65–74 | Married | Vic | Metropolitan | No |
| 15. | Category B | Male | 55–64 | Married | Qld | Regional | Yes |
| 16. | Category C | Female | 55–64 | Widowed / divorced | NSW | Metropolitan | Yes |
| 17. | Category C | Male | 55–64 | Married | Qld | Metropolitan | Yes |
| 18. | Category C | Female | 35–44 | Widowed / divorced | Vic | Regional | No |
| 19. | Category C | Male | 55–64 | Widowed / divorced | Vic | Regional | No |
| 20. | Category D | Male | 22–24 | Single | NSW | Metropolitan | Yes |
| 21. | Category D | Female | 65–74 | Married | Vic | Metropolitan | Yes |
| 22. | Category E (margin loan) | Male | 55–66 | Married | Qld | Regional | Yes |
| 23. | Category E (margin loan) | Female | 45–54 | Married | Qld | Metropolitan | Yes |
| 24. | Category E (margin loan) | Male | 25–34 | Single | NSW | Metropolitan | Yes |
| 25. | Category E (margin loan) | Female | 35–44 | Married | NSW | Regional | Yes |
| 26. | Category E (margin loan) | Female | 45–54 | Widowed / divorced | NSW | Metropolitan | Yes |
| 27. | Category E (loan) | Female | 55–64 | Married | Qld | Regional | Yes |
| 28. | Category E (loan) | Male | 45–54 | Married | WA | Metropolitan | Yes |
| 29. | Category E (loan) | Female | 45–54 | Widowed / divorced | NSW | Regional | Yes |

[11] Regional or metropolitan area determined by postcode.

# Part 1. The monetary loss

**This section of the report describes what these investors lost, the impact of the original loss, and the time period in which this occurred.**

## Findings at a glance

1. The impact of the loss depended on how much the investor relied on the investment, whether it was diversified and whether or not the investor borrowed to invest.
2. Investors were given very little information at the time of their loss about why it occurred and what to do about it.
3. The impact of the loss extended over several years for some people. The immediate impact was felt most strongly by investors who needed income immediately to pay pressing debts or for daily living. For others, the first six months (from when they discovered their loss) was the most crucial time.

## The nature of the loss

This section of the report describes the nature of the loss experienced by the investors who took part in our study and the factors which intensified or softened the impact of that loss.

### How much investors lost

**The initial loss**

The amount of money our investors reported they lost initially ranged from $2,000 to over $200,000, with most reporting figures around $50,000. This refers to the amount of money they initially invested which they no longer have or to which they no longer have access because the fund failed or was frozen.

Some investors lost more than that initial amount. Some had to borrow more money to pay off other debts. Some investors also lost more than the initial loss because they had to sell their house or other assets at ‘fire sale’ prices.

### Some factors made the loss worse

It would be tempting to think that the investors who lost the most initially suffered the most. However, this was not to be the case, as the summary overleaf describes. The three key factors which influenced the impact of the loss were:

- Whether the investor had diversified the investment or not.
- Whether the investor had borrowed to invest.
- Whether the investor had any other resources to live on after the loss.

**Figure 6:** The three factors which had most impact on the loss

| The nature of the loss depended on the structure of the original investment | | |
|---|---|---|
| **Undiversified investments** | **The investor borrowed money, either as a margin loan or a line of credit.** | **The investor had no other resources** |
| The less diversified the original investment, by and large, the worse off the investor was when the investment failed.<br><br>An investor who lost all their money – let's say it was $30,000 – could suffer greater distress than someone who lost $100,000 out of a $400,000 total investment. | Some investors put all their money into one single geared investment and had no means of paying back the money demanded by the bank.<br><br>In most cases, the margin call came as a shock. | Some invested all their money, leaving them with no financial buffer, for example:<br>• A disability pensioner invested a $40,000 inheritance.<br>• One financial planner encouraged his client to sell his house and invest it all in commercial property schemes, leaving the client destitute when the schemes failed. |
| Some people who invested directly did not diversify. Some financial planners also did not diversify the investment appropriately. Two financial planners diversified across different commercial property funds all of which failed.<br><br>However, diversification does not in itself offer a guarantee. We came across two investors in this study whose financial planners had diversified their superannuation portfolio but in risky ways, by using speculative funds as the fixed interest component of the portfolio. | Some investors had not understood that a margin call was a possibility and could only pay it by borrowing money from friends or family, or by selling assets.<br><br>Some of the agricultural managed investment schemes required the investor to borrow. In some cases, the investor used the dividends from their investment to help pay their monthly loan bill. Now the investment has gone, the investor had to continue to pay the loan back. Therefore, the financial strain of the loss did not occur until the investor struggled to pay the loan solely through his or her wages or pension. | Some of those people invested directly and some acted on the advice of a financial planner. |
| | *"I didn't fully understand what the margin loan was and then I got the phone call and then I was in my boss's office bawling my eyes out."* Category E investor with margin loan; 45–54; NSW; Metropolitan | *"Suddenly all the income from there stopped as did the other 3 or 4 investments they had put us into stopped. Struth, now we have no home, no income, how are we going to go on from here? It all stopped."* Category B investor; Male; 55–64; QLD; Regional |

# When investors learned of their loss

**This section of the report describes:**

- **When the investors first learned of their loss and what they did.**
- **When the investors realised how the loss was going to affect them.**

## How investors first heard about the loss

**It takes time to find out**

An important finding of this study is how long it takes for retail investors to know that they have lost their money, and the impact that this delay has on their financial situation.

Some of the funds which failed were discussed in the business press or the financial pages before they finally failed. However, with a few exceptions, the investors in this study did not read this type of media. Therefore, they did not find out about their loss until they received official notification – usually by letter – after the fund failed, had been taken over or had been frozen.

> *"We started to see in the press about [Category B investment] and thought that was interesting. Got on to our adviser and he said 'no problem at all, no worries, that is just the press talking'. He is the adviser, we pay him $12,000 a year to give us advice. Obviously [we thought] he is giving us good advice and we just left it at that. Then it just went on – getting letters from [Category B investment]…., then the next thing was, we have no income here."* Category B investor; Male; 55–64; QLD; Regional

Some discovered something was wrong when the fund stopped paying distributions. Some did not realise there was anything wrong until they received a margin call.

## What information investors received

**Investors received little information after the loss**

With a few exceptions, the financial planners who originally advised investors were generally silent when the failure or crash came, providing no information to investors. They provided no written information and in some cases would not return calls.

> *"Just when we needed advice they wouldn't give us any."* Category E investor with margin loan; Female; 45–54; QLD; Metropolitan

Although the managed investment schemes sent letters to their investors, some investors did not really understand what was happening.

> *"Official letters. Saying they had restructured and a lot of letters gave you a 'feel good'. This is from (Category B investment) themselves. Our adviser wasn't saying (anything), there was no letter from them saying anything."* Category B investor; Male; 55–64; QLD; Regional

> *"As far as I can tell they are trying to resurrect it and I think it got taken over …..I was not sure what was going to happen."* Category B investment; Female; 35–44; NSW; Metropolitan

It was as if the investors were in an information vacuum.

# What investors did when they first heard about their loss

**Some sought information from their financial planner or scheme owner**

Some investors tried to get in touch with their financial planner or the scheme owner but to no avail.

> *"Emailed them and asked them what happened and why there had been no warning and asked them 'what will happen now?' There was no answer. I have had no contact since then."* Category A investor; Female; 45–54; NSW; Regional

> *"I think I rang them up and said 'what is going on?' and no one knew what was going on there and no one was being vocal and then I think somebody sent out a withdrawal form to be ready and I thought that won't be any good, it was frozen."* Category B investor; Female; 35–44; NSW; Metropolitan

**A few investors approached ASIC**

Three out of the 29 investors interviewed approached ASIC after the loss.

One Category E investor with a margin loan checked on the ASIC website for information after they lost their investment to see what their options were. They commented that *"there is not a lot of easily available information on the site…..it required a lot of paperwork to simply register to get information so we didn't bother."* Category E investor with margin loan; Female; 45–54; QLD; Metropolitan

One Category B investor contacted ASIC when their distributions stopped arriving.

> *"The minute they stopped paying us and started borrowing money from (the bank), I contacted ASIC and they said 'we are keeping a strict eye on it and we are looking at it' and that was the answer I kept getting all the time 'we are looking into it' but they never did anything about it until it was far too late."* Category B investor; Female; 65–74; QLD; Regional

Another Category B investor approached ASIC, from a referral by the ACCC, hoping to find out about a compensation scheme:

> *"In the end they said, after careful consideration, ASIC will not take any further action into the issues that were raised and basically you can take it to a lawyer – take legal action if you want."* Category B investor; Male; 55–64; QLD; Regional

No one else thought to approach ASIC. (We explain more about this in the section on compensation on page 27). Only two people looked on the ASIC website.

**Some did nothing**

Most investors we spoke to did nothing when they first heard about their loss – nothing except wait. Investors who invested in funds which failed or had been frozen or taken over waited to find out more information from their fund.

**Some maintained spending levels**

What some investors did during those months was maintain their spending pattern on the assumption that they would be receiving dividends from their investment or it would be returned to them.

None of them knew how long the money would be unavailable and few expected at this early point that they may only get back a portion of their money. Some thought it would be a short time and they would get all their money back out, so there was no reason initially to cut spending. It took several months for some investors to learn that this was not true.

> *"You don't realise straight away that you haven't got the money to throw around like you used to."* Category A and D investor; Female; 65–74; NSW; Metropolitan

For some investors, the loss of income or the need for repayments meant an escalating credit card debt, with the investor paying the minimum repayment each month. In some ways this became their worst problem.

> *"I am paying $350 a month on my credit card, which I didn't realise until I got a statement to say I am overdrawn."* Category E investor with margin loan; Female; 45–54; NSW; Metropolitan

## When investors found out

The table below provides an approximate timelines of the loss experience:

**Figure 7:** The loss experience timeline

| Time | What happened | Their response |
|---|---|---|
| **Immediately** | Investors learnt of their loss through TV news reports, letters from managed investment schemes, or via a margin call. | Five of the investors in this study realised immediately that the loss was going to cause them severe problems.<br><br>These investors generally had no reserves and either had a debt to repay or were dependent on the investment to produce income. |
| **Within 3 months** | The first three months is roughly the time when investors in failed/frozen funds received letters about their fund.<br><br>For example, a Category C investor who had borrowed to finance the investment had to keep paying back the loan. She received letters of demand around this time. (Category C investor; Female; 55–64; NSW; Metropolitan) | Some investors had recovered a little bit by about the 3-month point.<br><br>For example one Category A investor "*felt bad for about a month*" but then knew that some of her capital would be returned, so some of the tension went away:<br><br>*"Once we knew something was coming from [the Category A provider] we settled down. It would help with your sense of well being. You've got to know what you've got, what you can afford and what you can't afford."* Mixed Category A and D investor; Female; 65–74; NSW; Metropolitan<br><br>Others did nothing during this time. |

| Time | What happened | Their response |
|---|---|---|
| **Within 3–6 months** | As the first six months went by, investors who may not have worried at the beginning started to realise the fuller implications.<br><br>Some had to pay extra bank fees because of problems paying credit cards and mortgages during the first 6 months.<br><br>Others faced margin calls during this time and it was only when the margin call came that they realised they were in trouble. | *"The banks were talking about taking a lot of fees and charges applying to us all the time. With the bank if you don't pay it back straight away they charge you for not having the money in the bank."* Category E investor with margin loan; Female; 55–64; Queensland; Regional<br><br>*"When you are seething underneath, it's a terribly worrying time trying to process it, you don't have any money and somebody is asking you for $10,000. It is a very daunting time."* Category E investor with loan; Female; 55–64; Queensland; Regional<br><br>Note that – as far as we understand – only one investor approached the bank for a hardship variation of any kind.<br><br>For others (not on margin loans), it was about readjusting to a new budget:<br><br>*"Six months you start to think about it and then probably over next couple of months you start slowly – not everything at the same time – you start looking at one thing and then another and by 12 months you have slowed right down."* Category E investor with margin loan; Female; 45–54; NSW; Metropolitan<br><br>This can also be a time of mental self-flagellation. Some investors had sleepless nights worrying about their own naivety and culpability. As one investor put it "*I didn't like myself very much*". Category A investor; Female; 65–74; NSW; Metropolitan<br><br>Relationship problems seem to start around this time, as one partner blames the other for the loss:<br><br>*"My wife, even now Christmas has come up and she is about to spend money on so and so I might say something like 'take it easy or take it easy there' and she just comes straight back and 'don't you tell me about being careful' …… if I wasn't a loving person and a reasonable person it would probably ruin it, that $50,000 would be enough to ruin my marriage."* Category B investor; Male; 65–74; Victoria; Metropolitan |

| Time | What happened | Their response |
|---|---|---|
| **Over a year** | Some investors were still suffering after a year or more. | During this time, credit card debt and stress built up. Prolonged stress can impact health and exacerbate existing illnesses like chronic fatigue, and high blood pressure.<br>*"I am definitely still affected by it as I have debt levels that I never would have had if I didn't take out the investment. I still have trouble sleeping at night with too much on my mind i.e. how do I eliminate this debt."* Category E investor with loan; Male; 45–54; WA; Metropolitan<br>*"I am now $17,000 in debt on my credit card. It builds up."* Category A investor; Female; 45–54; NSW; Regional<br>At the same time, investors started to cut back on some of the essentials. Some did not renew car insurance and spend on car maintenance, resulting in the need for car repairs after a year or so which they could not afford. |

# Part 2. Reimbursement, compensation and financial assistance

**Investors who lost money had several avenues through which their money could be returned to them or they could be compensated for their loss. Hardship variations were available to investors who requested them, if their fund had been frozen. This section of the report explains who used these various avenues and why.**

## Findings at a glance

1. The impact of the loss was different for investors in failed or frozen funds compared with investors who lost money through share-based investments advised by financial planners because the former received some money back, though in some cases this was a very small proportion and took a few years. The speediest return of some capital for investors in this study was for one of the investments in Category A which took 6–9 months. (This followed legal action by ASIC to recover investor funds.)

2. Some investors who could have sought compensation did not do so. The clients of financial planners had no idea that they had any recourse except to take individual legal action. Only some investors, who had been pushed almost to the limit, initiated legal action.

3. Other investors were unwilling to spend money on getting legal advice when they had lost all their money and were not confident that the financial planner or scheme owner was actually to blame.

4. The most popular avenue for compensation was to join a class action because it was free, mostly risk-free and easy to do.

5. Some clients of financial planners did not seek compensation at all because they were unable to contact their financial planner to initiate a complaint.

## The strategies that investors used to seek reimbursement or compensation.

The table below identifies the strategies that investors used to attempt to recover their money or be compensated for their loss. It shows how long each attempt took, on average. The table describes three categories of investor:

1. Investors in investment schemes which failed and had then been placed under administration or into liquidation.

2. Investors in investment schemes which failed but were taken over by another fund.

3. Investors in the share market through a financial planner.[12]

[12] As described in the Research Design section, we included some investors in the study who had share-based investments which had not failed but which were affected by the global financial crisis. The investors that we included either had been advised to take out a margin loan though they had no reserves to pay a margin call; had been advised to sell their house to invest in shares; or borrow against their super.

For each category, the table shows whether the money was returned and how long that took; or whether other forms of compensation were attempted and how long that took, for the investors in this study.

**Figure 8:** Investors' experiences of compensation and reimbursement, by type of investment[13]

| | Failed investments | | Investment schemes which were taken over by another fund | | Investments in the share market through a financial planner (see footnote below) | | |
|---|---|---|---|---|---|---|---|
| **Money returned** | Some in Category A and D have returned some money. | Nothing from the Category C investments | Some Category B investments returned some money. | | No | | |
| **How much** | From 25c to 60c in the dollar. | NA | 3c–4c in the dollar. | | NA | | |
| **How long this took** | Between 9 months and two years. | NA | Two to three years. | | NA | | |
| **Sought compensation** | None of these investors are in ongoing class actions. | Two have joined or will join class actions. | Two of these investors are in ongoing class actions. | One person attempted IDR and /or EDR. | Two investors have instigated legal action. | One investor was offered mediation. | One of these investors is also in ongoing class actions. |
| **How long this took** | NA | Ongoing. | Ongoing. | A year. | Up to 18 months and still ongoing. | Between 4–6 months. | Ongoing. |

This shows that investment schemes which were placed into administration or liquidation provided – for these investors – a better return of their funds than schemes which were taken over by another scheme owner. The former provided a return up to 60c in the dollar while the latter provided about 3c. The latter were also much slower.

The next section of the report describes the experiences of investors in failed or frozen funds or funds which were taken over.

[13] In this section, we have used our investors' terminology unless otherwise indicated. Some respondents used the term 'frozen' for funds which may have been frozen before being placed into liquidation.

# The experiences of investors who sought reimbursement

Throughout the liquidation process, or when one fund takes over another, some money may be returned to investors. Investors who received some money back described their experience in mixed terms. Some talked about how the liquidator or administrator was helping them. They had faith that the administrator or liquidator would do the right thing by investors.

However, some investors found the process less than ideal, for the reasons outlined below.

**Figure 9:** **The experiences of investors seeking reimbursement from failed investments or frozen funds**

| Experience | Details | |
|---|---|---|
| **Slow** | Investors felt the process was slow and difficult; the quickest fund to return funds to investors took 6–9 months. Others took years. | *"The whole time frame from the time it goes to administration to finally wound up, it stretched out so long."* Category C investor; Male; 55–64; Queensland; Metropolitan |
| **Uncertainty** | The long delays prevented investors gaining a sense of closure. It is a time of great uncertainty for them. | *"It is frustrating and an ongoing problem that you can't totally put to bed and you can't get closure."* Category E investor with margin loan; Female; 45–54; NSW; Metropolitan |
| **Raises hopes** | The process can raise and dash hopes in quick succession. | *"They froze the money for a certain amount of time and then when that time ended they went back to court and got it extended and … they kept going back to court and getting it extended each time ..."* Mixed Category A and B investor; Female; 45–54; NSW; Metropolitan |
| **Low return** | The amount of money received by investors can be low. This is especially the case when management fees are taken out of the returned amount. | *"Very recently they paid some money; they paid 4c in the dollar….. I think we got about $600 but the next week they send you a letter saying our management fees for the year is $600 and therefore you are not getting your return at all."* Category B investor; Male; 65–74; Victoria; Metropolitan |
| **It works against the small investor** | Some expressed concern that small investors would probably not receive much of their money back – they feared that most would go to the banks, or the administrators. | *"The money – who gets the money? First is the banks and I don't know why we aren't treated the same way as the banks and given adequate access to any of the funds that are left over after sales."* Category C investor; Male; 55–64; Queensland; Metropolitan<br><br>*"Every time the [bank] lends them more money then we have less properties. When they close it down it will belong to the [bank]."* Category B investor; Female; 65–74; Queensland; Regional<br><br>*"I think (the liquidators) are making a good dollar out of it too, which is unfortunately lessening our return."* Category A investor; Male; 45–54; Victoria; Metropolitan |

### When a new scheme owner took over the fund

The experiences of investors whose funds were taken over by other scheme owners, were different because there was no formal winding down process. The investors heard from time to time that assets had been sold – raising concerns about "*fire sales*". They had received a much smaller amount of their capital back.

Some investors felt that the scheme owners might be organising matters to suit themselves rather than the small investor.

> *"The new company ... they are going to end up with a lot of assets."* Category A investor; Female; 55–64; Victoria; Metropolitan

The next section describes whether investors sought compensation and describes the experiences of those who did.

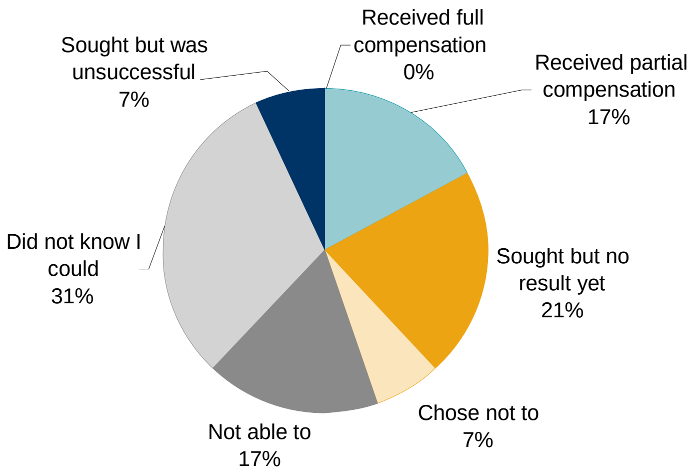
# How and why investors sought compensation

The introduction explained that different avenues for being compensated are available. This section of the report explains why some investors chose to take a particular avenue of compensation.

## Who sought compensation?

The chart shows the proportion of investors in our study who received compensation (in full or in part) and the proportion who did not, either because they did not seek it, they were not able to or they did not know they could.

**Figure 10:** **Who sought and received compensation**




Base: all respondents N=29

Q: Have you sought compensation for your loss?

As the chart shows, at the time of the interview no-one had received full compensation, while 5 investors (17%) received partial compensation.

Two investors (7%) were unsuccessful seeking compensation. These were:

- A Category A investor who joined a class action which failed – or faltered, he is unsure.
- The client of a bank's financial planner, who was told by ASIC that ASIC could not help.

> *"The people I dealt with at the ombudsman's office in the initial stages were very unhelpful, ........The ombudsman then cuts you off at $150,000, $150,000 is ridiculous if it involves a house or property or a business loan or it is sure to be over that amount and the longer they took to answer the greater my losses were.*
>
> *They sent me a little letter saying do everything to curtail your loss but I couldn't, I needed to unwind the transaction and I am still paying now. I rang ASIC and was told it wasn't anything they dealt with and they had*

> *no interest in it whatsoever. I tried twice. ..........I got the feeling they only dealt with large companies or they weren't interested in individuals that had an irritation with their bank. I had been told by someone else it was their area."* Category E investor with loan; Female; 45–54; NSW; Regional

Six investors (21%) said that they were waiting to hear the results. (These were all class actions.)

Nine investors (31%) said they were unaware that they could seek compensation.

> *"We have no recourse. There is no claims tribunal. There is nothing we can do."* Category A investor; Male; 65–74; Victoria; Regional

In essence, 'not able to' and 'didn't know I could' amount to the same thing – these investors did not know that they could make any kind of claim. The basic attitude was one of resignation.

> *"There is nothing any one can do about it."* Category D investor; Male; 65–74; Victoria; Regional

> *"There is no avenue, I suppose you could go to a solicitor but he would tell you the same thing, your hands are tied you can't do anything."* Category B investor; Female; 65–74; QLD; Regional

The investors who 'chose not to' had small investments – under $5,000. As one said *"I couldn't be bothered."* Category C investor; Female; 35–44; Victoria; Regional

## Dispute resolution

No investor in this study used the term 'dispute resolution'. As we describe below, two investors had (in their words) made a complaint. We believe that these might be considered to be dispute resolution processes. No one else seemed to know anything at all about formal dispute resolution schemes.

**Internal dispute resolution (IDR)**

Two investors seemed to have some experience of IDR.

One woman complained to her bank, prompted to do so by the financial ombudsman (as it is standard practice for banks to attempt to resolve complaints first and the ombudsman encourages this). Her late husband had invested with one of the major banks on the advice of a financial planner, leaving her destitute. The initial complaint resulted in lots of apologies from the bank but no action. Her second attempt led to the bank conducting an internal inquiry which exonerated the planner, much to the investor's dissatisfaction.

> *"They were given a time frame and the bank did not respond within the time frame and nothing happened and about 2 weeks after the cut off date for responding I got a 12 page – lot of pages anyway – report as if they had set up their own personal investigation and written like a legal report saying they had investigated …. …… from the particular financial adviser he had thought he had done nothing wrong. …... There were a lot of inaccuracies in it and they just fluffed over and said 'case closed' at the end of it."* Category E investor with loan; Female; 45–54; NSW; Regional

She appears not to have been told that if she was unhappy with the result at IDR, she could then go back to the financial ombudsman to try the EDR process. As she said, the implied message was "*case closed*". This investor appears not to have complained to ASIC about the bank's decision at IDR, nor been informed of the right to complain to EDR. She also described the process as very slow.

One man rang ASIC and was told *"to talk to the financial institution that has caused you the problem"*. Category B investor; Male; 65–74; Victoria; Metropolitan

He then contacted the Category B provider, who wrote to ASIC. The Category B provider did not inform this investor of any internal or external dispute resolution processes.

Two others were able to contact their financial planner when they realised their investment was in trouble. Rather than suggest the complaint procedure, some financial planners told their investors that the investment would improve:

> *"You talk to the financial adviser who says 'it always drops, it'll get better'. You believe them (though we don't believe them anymore)."* Category A investor; Female; 65–74; NSW; Metropolitan

None of the other investors complained directly to their bank, financial planner or managed investment scheme, although several tried to do so. When funds were placed under administration, they closed their doors to investors. Financial planners did not return calls.

It seems the question should be asked: were the scheme owners and financial planners avoiding contact to avoid the dispute resolution process?

**External Dispute Resolution (EDR)**

One woman contacted the FOS but she was advised that she should first of all consider legal advice because the amount she was claiming was over the amount (or jurisdictional limit) that the EDR scheme could award:

> *"They said 'you have a case and we would be happy to look into it further for you' but they did say that they would point out about (the) jurisdiction (limit) for anyone issued is $150,000 at which point I had lost $434,000 and they said we warn you if you go with us you might preclude any further redress against the bank."* Category E investor with loan*;* Female; 45–54; NSW; Regional

She is now personally taking legal action against the bank.

Another approached ASIC via the Category B provider as described above. He does not know why but ASIC told him they were unable to take action. It may have been because his financial planner had been deregistered.

> *"They wrote back and in the end they said, after careful consideration, ASIC will not take any further action into the issues that were raised and basically you can take …. take legal action if you want."* Category B investor; Male; 55–64; QLD; Regional

Again the outcome was for the investor to take legal action. These encounters with ASIC took about a year or more each.

**Reasons for not using IDR and EDR schemes**

The investors who had not considered IDR and EDR schemes knew nothing about them. One of the reasons for this was that some of the investors typically blamed themselves for the loss, at least in part. Therefore they had not complained to the investment scheme or financial planner and therefore had not learnt about the EDR schemes.

Another reason was investors' inability to contact their financial planner or scheme owner. One woman rang her financial planner's office repeatedly but the receptionist would not put her through:

> *"I said 'I want to see so and so' and they said 'you can't see him'. I said 'listen darling you are telling me I am potentially losing $13,000 and you are not going to let me come and see him?', I rang every half an hour, saying 'me again I need to see him'."* Category E investor with margin loan; Female; 45–54 years; NSW. Metropolitan.

This was a very common experience:

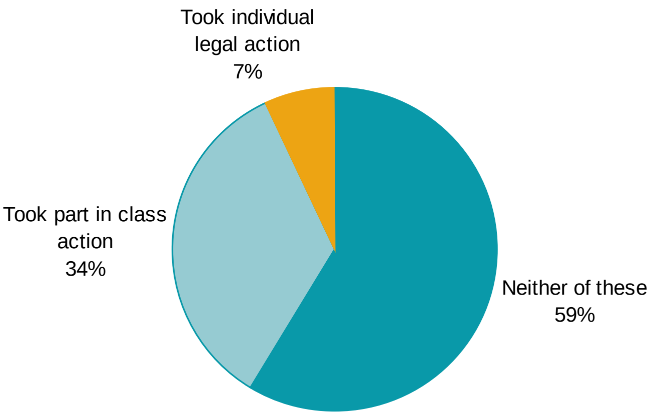
> *"The first news you got was through the media that something was going on and then all of a sudden it got very difficult to get hold of anybody at (Category E investment) and in the end you can't get hold of absolutely anybody. We never heard anything from the banks."* Category E investor with margin loan; Male; 55–66; Queensland; Regional.

# Private legal action

If the investor had invested in shares through a financial planner there was no mechanism for the return of funds, so their only options were private legal action – individual or class action.

The chart below shows the proportion of investors in our sample who had taken legal action, either individually or as a private class action.

**Figure 11:** **Who sought legal action**




Base: all respondents N=29

Twelve investors in this study (41%) took part in legal action of some sort, mostly as part of a class action (34%). Only two investors (7% of the sample) instituted legal proceedings by themselves.

Seventeen (59%) investors made no attempt to seek compensation through legal channels.

# Individual legal action

### Reasons for initiating legal action

The two investors who took individual legal action desperately needed to get some money back. Both were women acting on their own – one divorced, one widowed. Both had children; both had escalating debt, with no other way to pay the debt, and had reached a level of desperation.

They were also lucky in a sense – one of the women made a chance remark to a lawyer who was doing some work for one of her family members. That lawyer then explained the compensation avenues available to her. The other had legal training. One investor was offered a 'pay only if we win' deal by her lawyer, which reduced her concerns about the cost.

### Investors' experience of individual legal action

One investor described the experience she went through suing her financial planner like this:

> *"So we did a couple of meetings and a Barrister came in and we had a couple of meetings with him and then mainly back and forward information: affidavits, statements and all my margin loan statements and sending that to them and I had to give him everything I had basically…… then it was a matter of getting a time and the other parties said they wanted to mediate which is always a good sign they don't want to go to court."*
> Category E investor; Female; 45–54; NSW; Metropolitan

Although she was very pleased with the outcome, she went on to say how slow the process was. It took 18 months from first speaking to the lawyer to mediation. She was told it would take another 18 months if she wanted to take him to court. She decided not to do that because her lawyer advised her that her legal costs would be higher. In the meantime, she would still be unable to pay her debts, so it made more sense to settle.

> *"It has just taken so long and why is it taking so long and why can't we just get it done quickly? It was a bit frustrating and they said you could get anything from $30,000 to $100,000 and I got the bottom of it. It was just the unknown and will I be able to recoup? And will I get some of it back? And I just got frustrated."* Category E investor; Female; 45–54; NSW; Metropolitan

### Barriers to initiating individual legal action

The main reasons why investors did not take individual legal action were:

- misplaced blame;
- fear of the cost; and
- expectation that it would be a difficult process.

**Figure 12:** Barriers to initiating legal action

| Misplaced blame | Fear of the cost | Expect it to be difficult |
|---|---|---|
| Investors felt partly to blame for the loss because they 'agreed' or 'signed on the bottom line' to the investment. | Cost was one of the main reasons why investors did not or would not initiate legal proceedings against a financial planner or scheme owner. | Investors feared that legal action would be slow and difficult.<br>*"It would be an uphill battle."* Category A investor; Female; 65–74; NSW; Metropolitan. |
| Many of the clients of financial planners did not know that the financial planner may have broken the law by providing inappropriate advice. | They expected it to be both expensive and risky | Investors wanted to avoid the emotional pain. Several said they wanted to avoid reliving it all – and being embarrassed about their failings as an investor. They just wanted to "*move on*". |
| Some investors could not differentiate between losses which occurred because of the Global Financial Crisis (GFC) and losses which were perhaps triggered by the GFC but which were caused by initial poor advice. | *"I wasn't going to risk any more money."* Category A investor; Male; 55–64; NSW; Regional | Many investors suffered from depression at this time and have other health problems, which also made them reluctant to explore getting legal advice/legal action. |
| Some financial planners told their clients that the losses were caused by the GFC. | | Investors feared that their case would be difficult to prove.<br>*"The line between incompetence and fraud and simply overextending well, it is not clear."* Category C investor; Male; 55–64; Victoria; Regional |

To summarise, investors who lost all their money felt that they were in no position to consider hiring a solicitor, especially when they expected a positive outcome to be unlikely.

# Class Action

**Reasons for taking part in a class action**

Investors were motivated to join class actions for different reasons than those identified for individual action. They joined class actions because:

- They felt wronged and wanted to see justice done.
- They did not want to initiate action on their own or did not know how to.

Some investors who took part in class actions saw it as their only chance to get anything back. Others felt they had nothing to lose. There is also no upfront cost which also encouraged investors to join.

Some investors believed that their loss was caused by misconduct or negligence. For them, a class action allowed the possibility of seeing justice done.

> *"So the lawyers said if they win the action they take 50% or something quite huge and probably doing it for their own sakes. And we thought if that was the only way we might get some back we will give it a try. It wasn't the full motivation we thought if they are not doing the right thing and that hasn't been picked up before then hopefully a system will come into place and not to happen again."* Category B investor; Female; 35–44; NSW; Metropolitan

It appears that investors find it easier to blame investment scheme owners than they do financial planners. Compared with taking a financial planner to court, joining a class action:

- Seems an easy thing to do.
- Doesn't involve the threat of any personal confrontation, which is inevitable if the complaint is of a financial planner.
- Is also partly related to the particular investments and the publicity surrounding them. It is easy to feel less self-blame if other investors are blaming the scheme owner.

**Investors' experience of a class action**

Investors who took part in class actions described the experience in both positive and negative terms. For some, being part of a large group was reassuring. The process also provided investors with their only access to information about what was happening to the fund or scheme.

> *"The people now taking class action …… they reckon there were some shonky deals done there and at the moment they are funding their own investigations because there must be some big high flyers there and have lots of money. Keeping us informed of what is happening and hopefully the people looking after the administration also keep us well informed."* Category C investor; Male; 55–64; Queensland; Metropolitan

However, class actions can take a long time to get started and can be slow. Some investors also believed that it is a process which benefits the big investors.

**Barriers to taking part in a class action**

Some investors chose not to join a class action. For some, this was because they believed that they were the ones at fault because they knew that no investment was guaranteed.

Some also believed that some Category A investment schemes failed because of the economic downturn not because of the scheme's business models or management practices.

> *"He is a good person and he wouldn't have done on purpose what he had done – it is just a chain of events. So I thought let it slip and let's move on."* Category A investor; Female; 45–54; Victoria; Metropolitan

> *"Initially I never thought I was entitled to anything and I wasn't going to pursue it. I never joined the Action Group or anything like that because I thought this is my responsibility."* Category E investor with margin loan; Male; 55–66; Queensland; Regional

For someone else the class action "*seemed a bit militant*". Like other investors in this situation she was ill at the time and "*didn't want to deal with it.*" Category B investor; Female; 45–54; Victoria; Metropolitan

## Mediation

One investor in this study went through mediation with a bank. He was "*pushed into it"* by his new financial adviser. It turned out to be a satisfactory and relatively speedy process for him – it took three to four months.

> *"I got a settlement from them which paid out the margin loan."*

The investor didn't feel he was made to take the blame. *"During the interview with them, it was very positive and no blame game and no 'you should have known better'."* Category E investment with margin loan; Male; 55–66; Queensland; Regional

## The concept of a compensation scheme for investors

Investors knew that the purpose of the research was to inform ASIC's CAP submission on the potential for a compensation scheme for investors in their situation. Some commented spontaneously on whether they personally supported the idea.

**Why some investors generally supported the idea of a compensation scheme**

Those in favour of the idea of compensation felt that they were innocent victims of a system which failed them. For example, several investors in some Category A investments believed that they were misled by the apparent endorsement by well-known Australians. Others had paid for advice which was supposedly independent advice from an expert.

**Why some investors generally did not support the idea of a compensation scheme**

Three investors (who invested in Category B and E investments) did not want this – they simply wanted their money returned or for the investment to be allowed to build back to its potential. They were uncomfortable with the idea of taking money when they had chosen to follow advice.

Some investors with margin loans or lines of credit suggested that what they needed most was a way to restructure their loans so they could pay them back. One suggested an interest-free loan would be the best option.

# Who sought financial assistance

## Refinancing

Some investors worked out ways to refinance, for example to extend their mortgage, or borrow against the equity in their home, or to sell some of their other assets such as shares. Although they suffered emotionally, in ways which we describe later in the report (page 46), the financial intervention they experienced helped them with money to pay their bills and buy food.

Others were less fortunate, because they had no other assets to sell and were renting so had no equity to draw on.

Many investors who originally invested through financial planners were also reluctant to speak to another financial planner ever again.

## Financial counselling

One investor sought financial counselling assistance. The others had not done so mostly because they had no idea that the service existed.

> *"Never heard of financial counsellors. It's too embarrassing to talk about it and there's nothing that can be done."* Category A investor; Female; 45–54; NSW; Regional

> *"No I don't have any way of knowing how to approach the government or anything like that because you have invested all your life you are not part of government hand outs."* Category E investor with loan; Female; 55–64; Queensland; Regional

## Hardship relief

Investors with loans or credit cards can negotiate new repayment arrangements with their lender if they experience temporary illness, unemployment or relationship breakdown. The new repayment arrangements may involve:

- postponing repayments;
- making interest-only repayments for a period; or
- extending the loan period (so smaller repayments are paid over a longer period).

One investor negotiated with her bank to help pay off her credit card. No one else seemed to know of any hardship assistance that their bank could provide.

Investors in managed investment schemes can apply to a fund to have their money released if the fund is frozen and that fund has received relief from ASIC to release money for hardship relief. Hardship may apply where investors cannot meet reasonable and immediate family living expenses or where they are experiencing circumstances warranting compassion, including medical costs for serious illness, funeral expenses or to prevent foreclosure.

According to ASIC's website, "ASIC first announced hardship relief measures in October 2008. This meant that consumers who could not redeem their investments because their fund was frozen, could apply for special arrangements if they were experiencing financial difficulty. Since then ASIC has provided hardship relief to 22 operators for 76 frozen funds."[14]

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[14] http://www.asic.gov.au/asic/asic.nsf/byheadline/09-148+ASIC+expands+relief+for+hardship+withdrawals+from+frozen+mortgage+funds?openDocument

However, only two people in our sample knew anything about this. One man applied to a Category B investment to have his money released because he was in a "*desperate situation*" but they refused.

# Part 3. The social and emotional impacts and the effect on the broader community

**This section of the report starts with some quantitative data on the impact on quality of life and then describes the social and emotional impacts for these investors, and on the community.**

## Findings at a glance

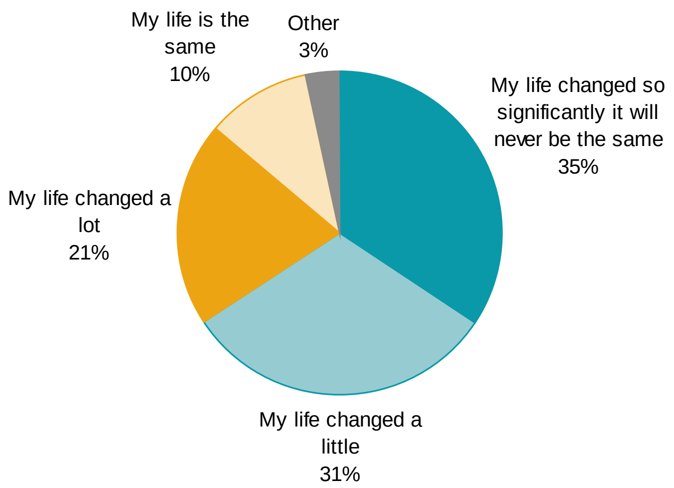
1. We have identified four different degrees of suffering: catastrophic; living frugally; financially settled but angry; and accepting. All of these investors experienced different degrees of financial and emotional distress.
2. Sixteen (54%) of the investors we interviewed said their life had changed a lot, or more than a lot, because of their loss.
3. Fifteen (52%) considered themselves to be 'just getting along' financially and 4 (14%) considered themselves to be poor or very poor. This compares with 29% of the population in the Household, Income and Labour Dynamics in Australia (HILDA) Survey (see Figure 14), stating that they were just getting along, were poor or were very poor.
4. Thirteen (45%) faced such problems as difficulty paying the mortgage, or having to go without meals.
5. The loss also affected families and workplaces and created costs for the community, especially retirees seeking Centrelink benefits or the Pension for the first time.

## The impact on quality of life

In the email questionnaire which preceded the qualitative interviews, we asked investors how much the financial loss had changed their life.

The chart below shows the proportion who said that their life was the same after the financial loss, and the proportions who said it had changed a little, a lot or so significantly it will never be the same. Ten investors (35%) told us that the impact was so significant it changed their lives dramatically. Another six investors (20%) said it changed their lives 'a lot'. For another nine investors (29%) the impact was a 'little'.

**Figure 13:** **How much the financial loss changed my life**




Base: all respondents N=29

Q: Thinking specifically about this, how much did your financial loss change your life?

We also asked in the email questionnaire how prosperous, comfortable or poor these investors currently felt they were, using a scale from the HILDA Survey. The data are shown in the table below, side by side with comparable data from the HILDA Survey.

Fifteen investors (52%) in our sample described themselves as 'just getting along' while four (16%) felt poor or very poor. This compares with the HILDA data where one in four (26%) was just getting along and 3% were poor or very poor.

**Figure 14:** **Given your current needs and financial responsibilities, would you say that you and your family are**

| | Our sample | HILDA |
|---|---|---|
| | **%** | **%** |
| Prosperous | 0 | 2 |
| Very comfortable | 3 | 16 |
| Reasonably comfortable | 31 | **53** |
| Just getting along | **52** | 26 |
| Poor | 7 | 2 |
| Very poor | 7 | 1 |
| | **100%** | **100%** |

Our sample: Base: all respondents N=29

HILDA data: Base: N=11139

Q: Given your current needs and financial responsibilities, would you say that you and your family are:

We have also been able to compare against the HILDA data on another useful measure. In our email questionnaire, we asked about the things that these investors had done or not done 'because of a shortage of money since the financial loss'. We asked them to select from a list of items drawn from the HILDA survey. The results are shown in the table below:

**Figure 15:** **Since your financial loss, has any of the following happened to you because of a shortage of money?**

| | Our sample | | HILDA[15] | |
|---|---|---|---|---|
| Multiple response | % | | % | |
| I could not pay my electricity, gas or telephone bills on time | 14 | | 12 | |
| I could not pay the mortgage or rent on time | 7 | | 6 | 20% |
| I pawned or sold something | 28 | 45% | 4 | |
| I went without meals | 17 | | 3 | |
| I was unable to heat my home | 10 | | 2 | |
| I asked for financial help from a friend or family member | 0 | | 12 | |
| I asked for help from a welfare / community organisation | 3 | | 3 | |
| None of these | 55 | | 80 | |
| I prefer not to say | 0 | | N/A | |

Our sample: Base: all respondents N=29

HILDA data: Base = N= varied

Q: (Since your financial loss) has any of the following happened to you because of a shortage of money?

Just under half (45%) of the sample (13 investors) had experienced at least one of the listed items, compared with 20% of the population according to the HILDA survey. Eight (28%) of the investors interviewed pawned or sold something. Five (17%) went without meals.

Comparisons with the HILDA data are revealing. The investor sample included significantly more investors who went without meals, pawned something, or could not pay to heat their home.

The qualitative interviews cast further light on this. One woman told us that she visits a friend once a week for dinner – and that is her best meal of the week. Others have friends who bring meals to them. One student told us that the quality of his diet had deteriorated to living off noodles. In one case, the family was occasionally taking discarded food from behind the supermarket.

Other significant impacts were an inability to pay bills on time and an inability to heat the home. In one of the worst affected cases, one investor would turn off electricity when she left the house. Several were worried about the impact of electricity price rises due in January 2011. One woman was facing a rental increase as well, so she expected to have to move house as the two increases would take her over her fortnightly pension.

The qualitative interviews also identified some other signs of hardship which were not measured in the survey. The most poignant of these was the fear that two women had that they could not pay for a funeral. One woman decided to donate her body to science, to avoid funeral costs.

Some investors dropped their car or health insurance, or could not afford to have their car repaired.

We asked investors whether or not they had suffered from any of the impacts listed in the table below. The results are shown below in rank order:

[15] The HILDA question was 'Since January 2007, did any of the following happen to you because of a shortage of money?'

**Figure 16:** **Financial or medical impacts**

| Impact of the loss included | |
|---|---|
| Multiple response | % |
| I and / or one or more members of my family have suffered from depression or anxiety because of what happened | 52 |
| I and / or one or more members of my family have suffered health problems (e.g. heart problems) as a result of what happened | 14 |
| I can no longer get credit | 3 |
| I had to sell the family home | 7 |
| I was made bankrupt | 3 |
| Any other major impact | 10 |
| None of these | 41 |
| Prefer not to say | 1 |

Base: all respondents N=29

Q: Did any of the following happen to you?

The most common impact was the impact on mental health. Over half – 15 people – of the families had at least one person suffer from a mental health problem. Four investors (14%) suffered from other health problems.

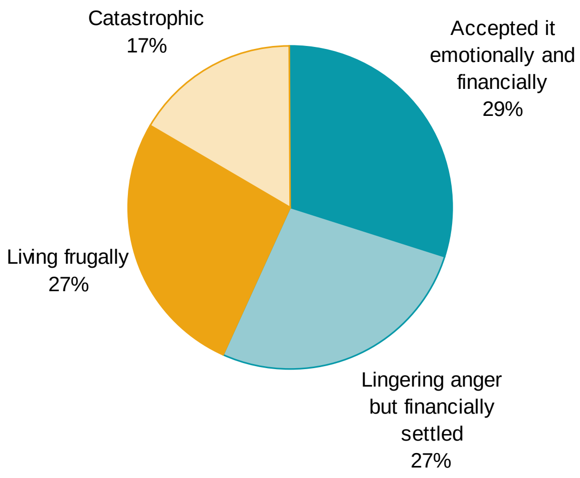
## Why some investors were more affected than others

Investors felt the impacts of the financial loss in different ways depending on how reliant they were on the money they had lost, how much they were in debt and whether that debt was getting worse – and whether or not they had received some compensation or capital returned.

Based on the qualitative interviews, we subjectively categorised each person's story in terms of the degree of the social and emotional impact they experienced. The purpose here was to include their emotional state into the equation, not just their financial state.

This is shown overleaf.

**Figure 17:** Subjective assessment of each person's emotional financial wellbeing




Base: all respondents N=29

- Five (17%) of the 29 investors that we interviewed qualitatively described situations which we considered to be catastrophic. We explain what we mean by this in the table below.
- Eight (27%) were now living in more straitened frugal circumstances than they were before – for example they had gone from being self funded retirees who took holidays and went out to dinner once a week, to being on a full or part pension, with few if any holidays or dinners.
- Eight (27%) seemed to be reasonably financially comfortable, although they remain angry.
- Nine (29%) felt little long term impact emotionally or financially.

The table below describes these segments in more detail.

**Figure 18:** Description of the four segments

| Degree of hardship | What that means | Compensation received or capital returned |
|---|---|---|
| **Catastrophic hardship** | We have used the term 'catastrophic' to describe the impact where the family had lost their home or was perilously close to losing it.<br>These investors had no other assets to draw on. All were in ill-health, or became ill afterwards.<br>Most felt deeply ashamed of their poverty. Many had had to rely on charity. Some of these investors "*cancelled Christmas*" for example; there were no presents for the family this year.<br>The investors we interviewed in this category had been diagnosed as suffering from high levels of ongoing stress and/or a range of other illnesses associated with stress such as high blood pressure which were not problems before their loss. One husband had died. Other couples are in conflict.<br>One lived in a caravan for a while; another in their car. | None of the investors we judged to be at the 'catastrophic' level had received any money in compensation.<br>Some had small amounts of capital returned, which went to pay debts, but they remained in serious debt.<br>It would seem that they are living below the poverty line. |

<table>
<tr><th>Degree of hardship</th><th>What that means</th><th>Compensation received or capital returned</th></tr>
<tr><td>Living frugally</td><td>Some investors did not lose everything, but the impact on their lifestyle was significant. They became frugal and many suffer from long term depression.<br><br>They accept that they have lost the money, though it took some time for them to adjust their life style to their new income levels.<br><br>They cut down their expenditure on clothes, entertainment and holidays.<br><br>One couple who had been property investors now deliver the local paper to earn some money. Another collects cans for recycling “to get money for a night out or tea out.” Category E investor with loan; Female; 55–64; Queensland; Regional<br><br>Many had ongoing stress, anxiety or depression and related illnesses, especially if there were debts to repay.</td><td>Five of the eight investors in this category had received no compensation.<br><br>The rest had some capital returned. Some had sold assets to pay debts.</td></tr>
<tr><td colspan="3">“We are constantly watching our purse strings. We have not been able to entertain as much as we used to. We are eating alright because the money we get from Centrelink is not too bad and I also get a part pension from DVA because I served in the Armed Forces.” Category C investor; Male; 55–64; Queensland; Metropolitan</td></tr>
<tr><td>Lingering anger but financially settled</td><td>For this segment, the financial impact was less severe, because they only lost part of their investment and / or had no debt.<br><br>However, the anger and bitterness remains. These investors were bitter at the scheme owners, or their financial planners. They were also bitter at the system which allowed this to happen.</td><td>Several of these investors had had some of their capital returned.</td></tr>
<tr><td colspan="3">“I don't think the anger ever leaves.” Category E investor with margin loan; Female; 45–54; NSW; Metropolitan</td></tr>
<tr><td>Accepted it emotionally and financially</td><td>Some investors have accepted what happened financially – usually because the amount of money was a small proportion of their total assets, and was to some extent ‘spare’. These investors had no debt, or had secure jobs or businesses from which they expected to recoup some of their losses.<br><br>They also described themselves as “easy going” or “glass half full people”. Category D investor; Male; 65–74; Victoria; Regional</td><td>Several of these had some of their capital returned.</td></tr>
<tr><td colspan="3">“I have never been a gambler in the first place but I have come out of this pretty much no impact, but then again I have always been pretty easy going, so I am basically shrugging it off.” Category E investor with margin loan; Male; 55–66; Queensland; Regional</td></tr>
</table>

The appendix contains one case study from each of these segments.

# The social impact of financial loss

For some people, one of the most significant impacts was the effect that the loss had on their interactions with friends and family. Many of these investors no longer eat out, especially avoiding eating out with friends. Most had also stopped going on holiday, or cut back considerably.

> *"If we go away now at Christmas time it's local. Friends of ours said we would like to go on a cruise and we have … and we said no, we can't afford to go and we are not going. So we will stay home at Christmas time."* Category B investor; Male; 65–74; Victoria; Metropolitan

One man has been a charity supporter, but could no longer afford to:

> *"I have a friend of mine in Rotary for example, and they have $100 plate dinners and I have to find an excuse now not to go to the $100 a plate dinner….. And the letters that come at Christmas, Salvation Army, Red Cross, we don't even look at them anymore where before we would say we are compassionate these people have less than us let's put $20 here $20 there we don't do that anymore."* Category B investor; Male; 65–74; Victoria; Metropolitan

One figure stands out in Figure 15 on page 41 – the '0' number of investors in this study who asked their friends or family for financial assistance. Almost everyone in our study had kept their loss very quiet from friends and family, because of shame and embarrassment. Investment loss of this nature is an invisible and lonely problem, as investors withdrew from their friends.

One investor felt she was leading "*a double life*", as she pretended to her friends that nothing had changed in her life.

Those living in hardship or living frugally tended to cut down their social lives considerably:

> *"You don't want to have a coffee with anybody because you don't have enough money to pay for a cup of coffee and basically you don't want to invite them back because of the poor state your house is in or whatever."* Category E investor with loan; Female; 55–64; Queensland; Regional

> *"No one wants to know a needy person……I met a new man – and I hid my car around the corner when he came to visit, so he wouldn't see it."* Category C investor; Female; 55–64; NSW; Metropolitan.

## Family conflict

The losses caused some damage to families. Many told us that they had not told their children, or their own siblings, and in some cases not their parents. These family members did not know why their sibling or parent was unsociable, stressed, or working multiple jobs, which caused some family conflict.

In some cases, there was some strain between husband and wife, usually because the investment was more one person's decision than the others. There has been one divorce among this group of investors since the GFC.

One young man no longer speaks to his mother, whom he blames for losing money which could have helped him. Some children had their activities curtailed. Some were forced into greater independence.

> *"I think if I didn't have a strong relationship with my husband we wouldn't be married still; it was a very trying time."* Category E investor with loan; Female; 55–64; Queensland; Regional

> *"We have a daughter who is a single mum and she has two boys, one in year 11 and one in year 8, and it is very hard for her and she really needs help and of course we can't do it."* Category B investor; Male; 65–74; Victoria; Metropolitan

## Impact on work and retirement

Ten investors told us that their retirement plans had to change. Some will stay in the workforce longer.

> *"Our retirement plans that we had are gone and we will have to wait until my husband is 65 or 70 (to retire) but he won't be able to keep working like he is until then. So it has affected our retirement plans."* Category E investor with margin loan; Female; 35–44; NSW; Regional

Some – including some divorced or widowed mothers – are now working several jobs, or the equivalent of several jobs.

> *"Since the crash I have had to now go back to full time work which is very hard for my children. I am working – I don't know – 50 hours a week perhaps. Both my children work in the business and they have been since they were 10 and 12, since my husband died."* Category E investor with margin loan; Female; 35–44; NSW; Regional

Some have been forced back to work after retirement.

Some found that their stress made it difficult for them to work.

> *"When you are feeling down, you are not thinking clearly."* Category A investor; Male; 55–64; NSW; Regional

> *"For a while there I lost it all and my focus was watered down and I couldn't really put in the effort that I usually do because I lost my focus and stressed out. But now I think over a period of time it has come back and I have to do what I have to do."* Category C investor; Male; 55–64; Victoria; Regional

# The emotional impact of financial loss

## Short-term and long-term emotional impact

This section of the report looks at the emotional impacts across the whole experience, and how investors coped since it happened.

**Short-term emotional impact**

**Anger** The most common immediate impact to the news of the loss was anger. Half of the sample mentioned anger spontaneously when describing their reaction.

*"I got a little angry as well ……. How could they do this? We worked so hard for our dollars and that is a set back and I couldn't really take it out on anyone. I'd like to punch him in the nose."* Category A investor; Male; 45–54; Victoria; Metropolitan

Some investors were "*devastated*" or "*gutted*" when they heard the news.

*"Awful sick feeling in my stomach. It was horrible.*" Category A investor; Male; 55–64; NSW; Regional

**Confusion** Several investors described their confusion when they first heard the news. They did not know what to do and what it would mean to them financially.

These feelings of anger and confusion never left many of the investors we spoke to.

**The longer term emotional impact**

**Anger** In the years since the initial loss most investors had lingering emotions, some of them very strong ones. Some were still angry, and very bitter. They continued to rage against the system – in many cases how could ASIC "*let it happen*". Others were angry at their financial planner or the bank.

Some of the angriest were investors who had battled the system who still felt that their matter had not been resolved. A few tried to challenge their financial planner, or at least get some answers out of the financial planner but to no avail. In some cases, their arguments were with the bank. These investors were very angry still.

**Blame** In the six months to a year after the loss, several investors struggled to cope with the idea that their "*gullibility*" – or possibly greed – had caused the problems their family were now having to deal with. This partly occurred because some of these investors did not realise that the managed investment scheme owners may have deliberately misled them, or that their financial planner may be in breach of his or her AFS licence.

The self-blame tended to turn into questioning their self-worth. Some only survived because of their obligations to look after their children.

**Depressed** Overall 17 of the 29 investors (59%) we interviewed described themselves as depressed, sad, helpless, frustrated, trapped or in despair. Five have been diagnosed with depression since their financial loss. One man lost his job because his depression affected his work performance.

These emotions did not usually occur at the time of the initial loss; they came about as the person thought about their own part in their own problems. Depression and helplessness also came about when the person wondered what on earth they were going to do now:

> *"I was thinking 'how can we do things' but it's basically out of my hands and I was frustrated that I couldn't do anything. Normally if there is a problem in our business or whatever we can sort something out but this was totally out of my hands."* Category A investor; Male; 55–64; NSW; Regional

**Uncertainty** This ongoing depression seemed to be linked to a pervasive sense of uncertainty caused by lack of closure.

> *"I need closure, need to move forward. I still think about it ….. Every time I open the cupboard, I see the folder."* Category A investor; Male; 55–64; NSW; Regional

Many of the situations these investors encountered caused this uncertainty. Some of the most difficult situations were when funds were frozen or placed in administration or under new management, investors did not know what to expect. They continued to ask themselves whether they would get any money back and if so when? The experience felt like a maze to many people.

**Stress** Some investors have lain awake at night stressed, several years after their initial loss. Those who were the most stressed were the ones most in debt.

> *"I could say depressed but I try not to be depressed because if I did I would jump off a cliff and I have two kids to look after. If it was just me I don't think I would still be here I just can't cope with the stress of it all but I just have to get up and do it because I have two kids and I could burst into tears on the phone for you."* Category E investor with loan; Female; 45–54; NSW; Regional

**Shame** Some investors told almost no one about their loss. One of the researchers was the only person that one investor has told. They are ashamed to be poor and ashamed to have made a mistake.

# Costs to the community

## Centrelink/Pension

Some investors sought Centrelink assistance for the first time after the loss. These were usually retirees who could no longer fully fund their retirement. One investor's children were now eligible for youth allowance, though they were not before.

Some investors who were under retirement age who had never sought social security assistance before were reluctant to start now. Some did not even think of it:

> *"I thought trailer park; not Centrelink."* Category C investor; Female; 55–64; NSW; Metropolitan

> *"At one stage I was worried and thought that that maybe Centrelink would be able to help me out with the situation but I don't like taking money from the government because it is for people that really need it. So my mum said I would rather be poor than have to go to Centrelink and abuse the system and I thought 'fair enough'."* Category E investor with margin loan; Male; 25–34; NSW; Metropolitan

Some of the investors we interviewed were retirees when they originally invested, or were on a disability pension. Centrelink deemed them to be receiving income from their assets. Despite the fact that the funds were now under administration or liquidation, Centrelink still calculated the value of the asset at its original value. Some investors were in a very difficult position in that they have a reduced pension because of their loss and no assets to help them pay off their growing debts. This can also happen when funds are taken over by a new scheme owner.

Some investors wrote to their local politician or a senior politician like the Federal Treasurer to ask Centrelink to acknowledge that their asset was no longer its original value. This tactic succeeded for two investors. Others did not try this because they were too ashamed to ask for help.

> *"We got $365 a week from Centrelink. Centrelink weren't recognizing ….. according to their books we still had that money invested and they said if you can't invest it there invest it somewhere else, but they froze it and we couldn't get our money …..We got onto Jenny Macklin and eventually a few months later they did bring in that we were members of (Category B investment) that we couldn't recognise we had units so then we were able to get the full pension."* Category B investor; Female; 65–74; Queensland; Regional

Others planned to go on the pension instead of funding their own retirement.

> *"At the end of the day I am not going to be self funded when I turn 65. I am going to rely on my pension."* Category C investor; Male; 55–64; Queensland; Metropolitan

> *"What am I going to do? I sit back and say 'I have lost this money, I am just going to have to retire on zippo'."* Category E investor with margin loan; Female; 45–54; NSW; Metropolitan

# Part 4. The impact on trust in the financial system

**This section of the report describes the impact of their experiences on perceptions of financial planners, banks and the Australian government.**

## Findings at a glance

1. One of the most significant impacts of these investors' losses is the damage to their confidence in the financial system.
2. Most of their criticism was levelled at financial planners, with some also levelled at the banks.
3. Their confidence in ASIC was also shaken. These investors expected ASIC to step in earlier to protect investors' funds. Looking back, they also believed that ASIC should have more power to regulate and monitor investment schemes. On the other hand, some were angry at ASIC when (in their view) ASIC did step in to 'freeze' some funds.

One of the questions in the email questionnaire was about how much each person trusted different aspects of the financial system. Investors were asked to state which of the following statements were true.

**Figure 19:** How much each person trusted different aspects of the financial system

| Do any of the following apply to you, because of what happened? (multiple response) | % | |
|---|---|---|
| I no longer trust financial advisers | 66 | 79% |
| I no longer trust the government | 41 | |
| I no longer trust the banks | 41 | |
| Other | 17 | |
| None of these | 14 | |
| I am unsure | 7 | |
| I prefer not to say | 0 | |

Base: all respondents N=29

Q: Do any of the following apply to you, because of what happened?

Twenty-three investors (79% of the sample) said that they no longer trusted at least one component of the financial system. Nineteen investors (66%) said that they no longer trusted financial advisers; twelve (41%) no longer trusted banks.

Significantly, four in ten (41% – 12 investors) no longer trusted the government.

The qualitative interviews explored why this loss of confidence occurred.

# Reasons for distrust of financial planners

Investors' interactions with their financial planner changed as soon as the investments failed.

> *"Before all of that, the advisers were keeping fairly good contact on a very regular basis, like email and that. Once (the Category B investment) started going a bit pear shaped, that all stopped and when we tried to contact them to find out what was going on, it was all very vague, they were trying, they didn't give us any advice, they weren't really there."* Category B investor; Male; 55–64; Queensland; Regional

Therefore, two thirds of these investors distrusted financial planners as a result of this loss. They saw the issues as:

- **The financial planner's self interest.** Anger at the financial planner came from investors who believed that the financial planner's advice – which seemed to be to their benefit at the time – was in fact to "*line the pockets*" of the financial planner.

  *"I am very angry against the financial adviser really. I do think he was a very good talker."* Category E investor with margin loan; Female; 45–54; NSW; Regional

  *"Disgusted actually, you trust in their financial advisers and they led us astray, completely astray."* Category C investor; Male; 55–64; Queensland; Metropolitan

- **The financial planner did not explain the risks to clients**.

  *"All sales and don't keep in touch and meets the quota and I think about it now and they have no moral standards. Financial planners need to explain the risks rather than the profits."* Category E investor with margin loan; Male; 25–34; NSW; Metropolitan

The apparent refusal of financial planners to contact clients after the loss seems to have created or reinforced this distrust. It may be worthwhile exploring in a future study the reasons why so many financial planners apparently chose not to speak to their clients.

# Reasons for distrust of banks

The investors who distrusted the banks were generally those who lost money through the investment advice of a bank financial planner.

> *"Yes I would never touch a major bank again. ….. I am dead scared of going near one of the Big 4.*" Category E investor with loan; Female; 45–54; NSW; Regional

Some in managed investment schemes were affected when the banks called in the loans they had made to the managed investment scheme:

> *"I think the banks, they are like sheep and as soon as there is an inkling. Had first mortgages on all these buildings and they dried up the credit and so they couldn't expand, they couldn't have an overdraft, they cut down their overdraft facility and then that scared the investors and had a flow-on effect then and that has affected everyone."* Category A investor; Male; 45–54; Victoria; Metropolitan

There were a couple of good news stories for the banks. One Category E investor with a margin loan took part in mediation with a bank and was very happy with the outcome. Another was also able to take out a loan with a bank which took him from catastrophic status to just living frugally.

In some ways, the collapses of the last few years may benefit the banks. Almost everyone we spoke to said that they would now never invest speculatively. They would "*put their money in the bank*".

# Reasons for distrust of government

One of the most significant issues to arise from this report is the effect that these losses had on perceptions of the government, and regulators, especially ASIC. The viewpoints that these investors expressed about ASIC were that:

- Inexperienced investors need proper protection.
- ASIC should be able to prevent new unscrupulous schemes operating.
- ASIC should police ongoing funds and schemes more rigorously.
- ASIC should intervene earlier.
- ASIC 'froze' some funds, preventing investors getting their investment back.

Some of the comments suggest that these investors may not fully understand the role of ASIC, and what ASIC can or cannot do to protect investors. For example ASIC is unable to limit competition and prevent new so-called 'unscrupulous' schemes entering the market if they are operating within the law.

One of ASIC's roles is to release investor alerts and put out information for investors, including tips on what questions inexperienced investors should ask and how to diversify. Investors would benefit from greater awareness of this information.

These comments therefore suggest that there may be a significant 'expectation gap' for ASIC to overcome.

Some investors who tried to contact ASIC for some form of redress also became angry when ASIC could not help them.

We discuss each of these points on the following page.

## Inexperienced investors need protection

Several investors described themselves as financially "*gullible*". One was described as naïve by her lawyer.

Several investors made the point that the Australian system allows for – perhaps encourages – inexperienced investors to interact with a complex financial system.

> *"They say that (funds offering high interest) should ring alarm bells but when you don't know a lot about investing money and you don't have financial advice, how are you to know?"* Category A investor; Female; 45–54; NSW; Regional

In part, this was to do with complex documentation.

> *"For one example, they sent us an explanation about how they were going to determine the costs of the units into what the return was for the people, the document was three times as thick as the original prospectus, and so if you can't say something in 2 mins, you sit down and shut up. ASIC should never have let them get away with it, here is the clause that you explained in the original document you have to explain this clause to the people."* Category B investor; Male; 65–74; Victoria; Metropolitan

> *"I found even emails from lawyers I have to read them 100 times to understand what they were saying and even then I had trouble because it is the law and they have to do everything exact to explain something. I suppose a mediator that can explain this is what is happening in plain English. 'This is what is going to happen next and might take this long'."* Category B investor; Female; 35–44; NSW; Metropolitan

## No regulations to prevent new and unscrupulous schemes

Several also made the point that the government should not allow people to start schemes without any guidelines:

> *"We have no recourse. There is no claims tribunal. There is nothing we can do. Just like if you or me start and try to set up a company and said we are just going to take your money and then walk away when it went wrong. …. There are no restrictions. No guidelines."* Category A Investor; Male; 45–54; NSW; Metropolitan

One issue here is that the managed investment schemes were marketed as if they were simple products which were easy to buy, when it seems that they were more highly complex products.

According to these investors, the schemes were heavily advertised on TV and the newspapers, and through direct mail and telemarketing, to the point that some people felt pestered into investing.

> *"They have all these lovely adverts: green and gold and your family. And they rang me up time and time again, saying 'You don't have to pay now'."* Category C Investor; Male; 55–64; Victoria; Regional

## ASIC should police ongoing funds and schemes more rigorously

Several investors told us that they contacted ASIC when they could see problems with their funds, or after the funds crashed, but ASIC was unable to help. These investors were furious that no one could help them. Their perceptions were:

> *"ASIC doesn't oversee enough. These people can put forth all these materials and it sounds good on paper, but it is not true."* Category A Investor; Male; 45–54; Victoria; Metropolitan

> *"The minute they stopped paying us and started borrowing money from the [bank] I contacted ASIC and they said 'we are keeping a strict eye on it and we are looking at it' and that was the answer I kept getting all the time 'we are looking into it' but they never did anything about it until it was far too late."* Category B Investor; Female; 65–74; Queensland; Regional

> *"I believe ASIC should've been more diligent in checking if (Category E investment) had a licence. They should act as more of a watch dog ... and be the body that is required to give endorsement."* Category E Investor with margin loan; Female; 45–54; Queensland; Metropolitan

## ASIC 'froze' the funds

Conversely, some investors blamed ASIC because they could not access their investment once it had been frozen. However, funds are frozen by the fund manager (rather than ASIC) to protect all investors to avoid a run of investors trying to recover their investment at the same time.

## Anger when ASIC could not help

Some investors contacted ASIC and became angry when ASIC could not help them. One man contacted ASIC and was told that he should contact his financial services provider first, perhaps because the financial services provider would first need to receive a complaint so they could address it. The financial services provider simply told the investor that they could not help him. He blamed ASIC for failing to help him.

# Distrust of corporate Australia

Although not measured in the quantitative part of the study, in the qualitative interviews investors reported that they now angrily distrusted corporate Australia, because of their experiences of investment loss. Their complaints arose because they saw that some high profile people or politicians had supported their investment but had emerged unscathed.

## CEO salaries and executive bonuses

Some were angry to see the investment scheme owners living in apparent wealth.

> *"I think you are always angry at the people that have actually been the instigators. They live in really good houses and their lifestyle is 5-star and they go off on holidays and do the best sort of things and go to the best places."* Category E Investor with margin loan; Female; 45–54; NSW; Metropolitan

Investors who lost a lot of money because they trusted executives and organisations now felt very bitter towards not just those individuals, but to business executives in general.

> *"I just got very bitter when I hear what CEOs are making at our expense."* Category A Investor; Male; 65–74; Victoria; Regional

> *"It reaffirms what I thought. People make a lot of money from doing not a lot of work … unscrupulous …. dubious individuals who profit off the hard work of others."* Category D Investor; Male; 22–24; NSW; Metropolitan

## Lack of accountability

Some also felt that the scheme owners or the executives should be accountable. One of the reasons that investors considered class actions was to "*see justice done*".

## A shift to greater self-reliance

Some of the investors in this study who invested directly did so because of previous bad experiences with financial planners. After the crash of 2001 one investor:

> *"Went to a financial adviser and he did a portfolio and I don't know what happened with the stock market or whatever but it started to go down and we lost a bit of money from that so we took that money that we had in the portfolio and then got rid of him and then I started to look in newspapers for different companies."* Category A Investor; Female; 55–64; NSW; Metropolitan

The relevance of this story is that the investors who lost money may do the same thing again and become more and more self-reliant. While this would mean that they avoid further poor quality advice, they may also fail to gain any good quality advice, which they may especially need at retirement.

## Refusal to invest

Almost every one told us that they would not invest again. They planned to put their money in the bank, or perhaps into residential property. This may mean that their savings may not keep pace with inflation, and will not increase enough to provide any kind of income in retirement.

Although these investors said that they will be cautious and keep their money in the bank, there is also the possibility that they will seek out unregulated investments in their attempts to avoid inappropriate financial planning advice.

# Appendix

The Appendix contains

1. Case studies,
2. Details of our methodology,
3. Copies of the initial screening question, email questionnaire and interview guide,
4. Glossary.

Note: We have chosen one case study for each of the four categories we have described: catastrophic hardship; living frugally; financially settled but angry; and accepting.

# Case Study: Catastrophic hardship

**Category A investor; female; 45 to 54. Regional NSW**

- A disability pensioner since 2006, who lives alone.
- Had a $40,000 inheritance.
- She got $10,000 back and spent it on necessary eye surgery.

She saw TV commercials for the Category A investment in 2006. She checked with Centrelink who said that it would be OK as they were registered with ASIC. She also checked with her bank who saw no problems with the idea.

It all went well for a few years. However, the investment scheme were very pushy. 'Anthony' rang her quite often suggesting that she reinvest, including up to two weeks before they failed.

She didn't reinvest – she took the dividends and lived off them. The investment had cut into her disability pension because of Centrelink's deeming rules. Being on a pension, the return gave her the leeway to have a car. And she moved closer to her family.

In June 2007, she heard about the failure when a friend called her to tell she had seen it on TV. To this day that friend and the researcher are the only two people who know that she has lost her money. She is desperately ashamed.

Initially she was "*gutted*". Everything had gone. She thought there was nothing she could do. She emailed Anthony but has never heard from him since then. She went to their office, but it had closed down.

Although the shock was immediate, the implications came later. One of her problems is that Centrelink still consider that she has an asset, so it is has affected her pension entitlements. She can't get free prescription glasses or hearing aids, both of which she has had to pay for.

The researcher has suggested that she contact Centrelink to tell them of her situation, but she is too ashamed to tell anyone. She blames herself.

Since then she has dropped her car insurance and then had a car accident. She has borrowed money from a friend to repair her car because she lives in a regional area, but she doesn't know how she will pay her friend back. She has stopped meeting her family or her friends for dinner, giving excuses saying 'I have got no petrol', or 'I have no cash'. She says she feels as if she is living a double life.

She spends $60 a fortnight on food, $400 rent. She is $17,000 in debt on her credit card and has arranged with the bank to cancel it and pay it off. She has cut down her meals to the very basics. She has high blood pressure, angina, and high cholesterol. She cannot afford to pay for all the medication she needs for her illnesses, so she has stopped taking one of them. She turns off the fridge (nothing in it anyway) and the hot water heater. She turns off the electricity when she goes out. She is mentally "*flat*".

She has seen 'Beyond Debt'[16] on TV, and is interested in it as a way of paying off her debt, to stop the interest payments. It will put a blot on her credit history for seven years.

Investors in this scheme can register with the administrator but she hasn't done so, regarding it as a lost cause.

[16] 'Beyond Debt' provides a service for a fee so clients can identify debt solutions, including debt consolidation and filing for bankruptcy. For more information about 'Beyond Debt' see: http://www.beyonddebt.com.au/

One of her greatest concerns is her will. She hasn't told anyone that she can't pay for her funeral. "*Bury me in a cardboard box. Donate me to science. They will find out when I die.*"

She will have to move when the rent goes up. She is considering a granny flat in someone else's back yard, or selling her car to buy a campervan.

# Case Study: Living frugally

**Category B investor, Couple, 55–64, Regional Queensland**

They were advised to invest in the Category B investment by their financial adviser. They were impressed with the apparent endorsement by politicians.

On the adviser's advice, they sold their house and invested the proceeds, some into the Category B investment and the rest into other similar schemes (based on the adviser's advice). The money was "*parked*" there while they looked for another house. They expected to be self-funded retirees.

In 2007, they started seeing articles in the press about the scheme. Before the fund failed, the adviser reassured them there was no problem with it. Then the scheme owners wrote to them to tell them it had all gone. At that point they were feeling "*worried*, *nervous, jittery, anxious*"*.*

Then they heard from their adviser "*saying that they had lost some sort of insurance cover, whatever cover the financial adviser must have.*" The adviser was deregistered.

By then, their only income was $50 a week out of the super fund but they had a $400 dollar a week rental. They could not move to another cheaper rental because "*people could see we were unemployed, had no income*". So they broke their lease and lived in the car "*out west*" on camp sites for a while. This was in 2008 – it took about a year to get to this point. Over this period, the stress reignited a mental health problem, so the husband had to see a psychiatrist and was diagnosed with depression.

Then things got a bit better. He started getting a Defence Department pension and they were able to get a loan to buy a house that someone else was selling very cheaply because they too were in trouble. They still have some super. They are healthy "*because we walk everywhere*" (having sold the car). One of them has a casual job and the other volunteers somewhere.

They describe themselves as "*thrifty*". They don't eat out. They buy the cheapest of everything. They don't visit friends and family any more.

At the beginning of 2009, he wrote to ASIC asking for compensation because the adviser did not point out the negative consequences. ASIC responded in mid 2010 saying that they would not take any action. ASIC suggested that they take legal action – but as he understands it, that is impossible for people who have lost everything and have no money.

It has taken about 18 months of trying to get compensation of some kind. His wife says he spends "*95% of his time is on the computer, writing, receiving, following up, and researching any lines of possible action that he can take*." Their marriage is under strain and his health is no better.

As time has gone by the initial stress has turned into anger. He was fighting the system.

They blame the government, because the scheme was 'not accountable', and the adviser, because the Category B investment was paying commissions to the adviser.

# Case Study: Financially settled but lingering anger

**Category A investor, Male, 55–64, Metropolitan Victoria**

The Category A investment was an unlicensed managed investment scheme. The investor learnt of the scheme through his accountant whom he had dealt with for several years. Based on this existing relationship he wrongly presumed that the investment was appropriately registered.[17]

The investor discovered there was a problem with the investment when he and his wife stopped receiving dividends, which the group attributed to falling property values because of the GFC. Then some of the investors went to ASIC. After enough people complained, ASIC started to investigate and they discovered it wasn't a managed investment scheme and wasn't registered. "*A lady from ASIC*" rang them after a few months "*to present some sort of case*" but they were going overseas so they didn't take part.

They still had to pay a loan back. His wife has gone back to work and they are selling some of their investment properties.

They said they are expecting 8c to 10c in the dollar return from the administrator.

Initially the response was shock but thought it would "*blow over*" because of the GFC. They waited a year. Then they got angry. They thought of hiring a solicitor but didn't because it is "*chasing good money after bad*". He doesn't believe that the scheme owner was "*corrupt*", just "*incompetent*".

He blames the banks for calling in the loans that triggered the failure.

They are kept up to date by the administrator, but they have found the process slow. One difficult part was when ASIC took over; they were no longer allowed to talk to the scheme owner.

"*I couldn't get information from (the Category A investment) and no one from ASIC really so until a receiver was appointed we were a little bit in the dark.*"

He tried to shelter his wife and family from all this so has told them only the basics. They worked out how to cut costs, renegotiate their mortgages and are looking at their phone bills and the electricity bills. They have just been on a big holiday.

The relationship with his wife became strained after she had to go back to work. They won't be able to help their children as much as they had planned. He has stopped sleeping properly.

They have "*gone through all the emotions and now accepted what has happened.*"

[17] ASIC has consumer information to warn investors to check whether a managed investment scheme is properly registered: http://www.moneysmart.gov.au/investing/investment-warnings/illegal-managed-investment-schemes

# Case Study: Accepted it emotionally and financially

**Category B investor, Couple, 35–44, Metropolitan NSW**

They invested through an adviser about five years ago. This adviser has remained helpful throughout the process.

They joined the class action because they received a letter from a law firm. They received advice that "*if they win the action they take 50% or something quite huge and are probably doing it for their own sakes.*" They decided to join anyway "*because it might reveal loopholes in the law to make sure it doesn't happen again to other people.*"

She can't remember much of the detail or many of the dates. She is uncertain about the state of the investment as it has been taken over by another organisation now. "*It is sitting there and don't know whether we will get anything back.*"

The investment was to help them buy a house – they are currently renting. It will now take them longer to get the deposit together but they are not all that worried about that. They have no debts and were not relying on this income from this investment to live on.

Initially when she found out, she felt confused about 'what can we do'. "*I don't think angry because I don't think I quite understood all the ins and outs and what had been happening with that.*"

She blames herself a little bit "*that I hadn't made the right decision but having said that, I went on the information that I had at the time.*"

Now, they "*wait and see what happens*". She has "*put it on the backburner really. At the back of our minds it was there, but in the sense we had written it off. [And we say] well ok we have lost all our money and there is no point in going over it all.*"

She was cranky for a while, but is now "*resigned that is the way it is and we are fairly calm through the whole thing*".

She thinks it would be valuable to have "*some kind of support service for people that are struggling, it is not just about the money, ... no-one ever contacted me and said 'how are you coping?'.*"

She would not initiate legal action herself because she thinks it will take "*years*" "*so I don't have a lot of faith in the court system in that respect*." She has also read the information from the class action and thinks it is a complex situation "*something to do with the wording or who can be compensated*" which she says is beyond her. "*So actually having to go to court and possibly be asked about those things would be embarrassing I think and not understanding.*"

She said even if there was legal aid the effect of the legal process on the family would be worse than losing her money.

If there was a support mechanism of some kind she feels it would be best if they found out about it quickly. However, she says: "*I suppose it is hard to know how you would respond. Maybe at that time I would have said 'I don't want to talk about that now' and then you would want a follow up a few months down the track and to ring up and how are you going and are you ready to talk about it now.*"

"*I found even emails from lawyers I have to read them 100 times to understand what they were saying and even then I had trouble because it is the law and they have to do everything exact to explain something.*"

# Research Methodology

We used a multi-stage multi-method research design.

The research methods were chosen to deliver rich and detailed case study material to yield insightful recommendations. We also needed to interview investors with sensitivity and conduct the study in a cost effective manner.

The data collection methods we used for the study were chosen because they enabled us to:

- Find a small segment of the population to interview them in depth.
- Provide some descriptive data about this segment of the population.

The procedure used was:

| Stage | Study procedure | Sample size | Where to find more information |
|---|---|---|---|
| 1. | We asked an initial screening question on the Survey Village online panel. Survey Village is a Market Research agency specialising in online surveys. | N=9304 people responded to the initial screener. Of these N=431 claimed to have suffered a financial loss not simply caused by the economic and market downturn. | Refer to the Initial Screener on Page 64 |
| 2. | We assessed the replies to the initial screening question and then sent an email questionnaire to people who answered that they had suffered financial loss in the last 10 years, of a type that was not simply due to the global financial crisis. | The email questionnaire was sent to the N=431 people who said that they had experienced financial loss.<br><br>N=296 responded to the email questionnaire. | Refer to the Email Questionnaire on page 65 |
| 3. | We then assessed the answers to the email questionnaire and chose a short-list of people for a further interview.<br><br>This further interview was a face to face or phone one-hour qualitative interview. The Susan Bell Research team of researchers conducted these interviews.<br><br>People went on the shortlist if we believed they had suffered a financial loss of the kind covered by this research.<br><br>We also aimed for demographic diversity in the sample and aimed to interview people in regional as well as metropolitan areas, and in most Australian states or territories.<br><br>In addition to this we included one person in our sample who was not from the Survey Village panel. She had revealed in an earlier research project that she had suffered this kind of loss and was willing to be interviewed about it. | N=55 appeared to be eligible for interview.<br><br>Of these we secured an interview with N=33 people, of which 29 were used in this report. | Refer to the Interview topic guide on page 70. |

Respondents in Stage 2 were rewarded with Survey Village points. Participants in Stage 3 were thanked with a cash incentive.

This research was conducted in accordance with ISO 20252. ISO 20252 is an international quality management standard, developed for the market and social research industry. Our certification is through NCSI. More information can be gained from http://www.ncsi.com.au/iso-20252.html

## Age, gender, and employment status: summary data

So that we can easily see how similar or different our sample is from the overall population, where we can we have shown our sample data alongside comparable data from The Household Income and Labour Dynamics in Australia Survey (HILDA).[18] Where the interview was with a couple, the information in the table below is of the primary respondent.

The first table compares the age of our sample with the age of the population.

**Figure 20:** Age of the sample

| Age | Our sample | HILDA DATA |
|---|---|---|
| | % | % |
| 15–17 years | 0 | 5 |
| 18–19 years | 0 | 3 |
| 20–21 years | 0 | 3 |
| 22–24 years | 3 | 5 |
| 25–34 years | 3 | 16 |
| 35–44 years | 14 | 18 |
| 45–54 years | **31** | 18 |
| 55–64 years | **28** | 15 |
| 65–74 years | **21** | 10 |
| 75 years or over | 0 | 7 |
| TOTAL | 100% | 100% |

Our sample: Base: all respondents N=29

HILDA data: N=11290

One third (31%) of our sample is in the early pre-retirement age range 45 to 54. A similar proportion (28%) is within the conventional age range for retirement: 55 to 64. Some (21%) are over 65. As the comparison with HILDA data shows, our sample is skewed towards these older age groups.

The table below compares the gender of our respondents with the overall population.

[18] http://www.melbourneinstitute.com/hilda/

**Figure 21:** Gender of respondent

| Gender | Our sample | HILDA DATA |
|---|---|---|
| | % | % |
| Male | 41 | 49 |
| Female | 59 | 51 |
| Total | 100% | 100% |

Our sample: Base: all respondents N=29
HILDA data: N=11278

Although six in ten respondents were female compared with 51% of the population, this does not mean that women are necessarily more likely to be victims of these losses than men, because some of the women who responded to the email questionnaire did so on behalf of their husband as well.

The next table compares the employment status of the sample with the overall population, as shown below.

**Figure 22:** Employment status

| | Our sample | HILDA DATA |
|---|---|---|
| | % | % |
| Employed (including self employed people, and working students) who usually work less than 35 hours per week | **42** | 19 |
| Employed (including self employed people, and working students) who usually work 35 hours or more per week | 28 | **45** |
| Neither employed nor looking for work: Retired | 10 | 19 |
| Neither employed nor looking for work: Home Duties | 10 | 8 |
| Neither employed nor looking for work Other e.g. unable to work due to illness | 7 | 2 |
| Neither employed nor looking for work: A non-working student | 3 | 5 |
| Not employed but looking for work | 0 | 3 |
| Total | 100% | 100% |

Our sample: Base: all respondents N=29

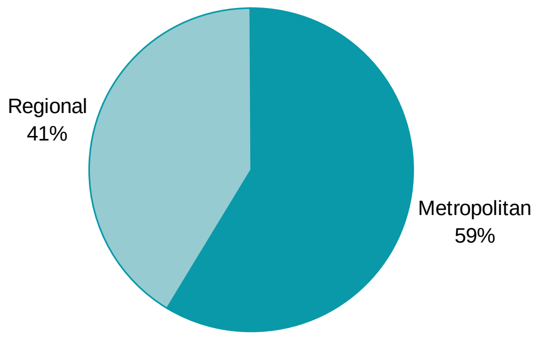
HILDA data: N=13522

Twelve members of the sample (42%) were working less than 35 hours a week, while a quarter (eight people) worked over 35 hours. This is different from the population data where a higher proportion are employed full time. Nevertheless, such a difference would be expected of an older age group. Over half of the 65–74 year olds in the sample are in the workforce.

## Geographic location

We interviewed people from across Australia.

**Figure 23:** Geographic location

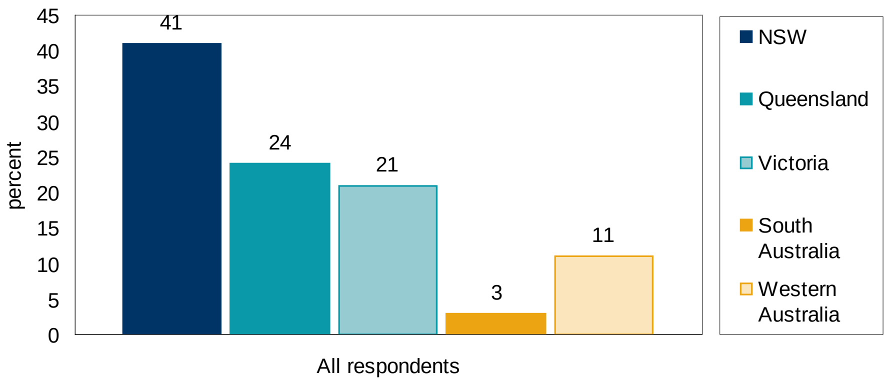



Base: all respondents N=29

Six in ten (59%) interviewees were from metropolitan areas while 41% were from regional Australia, ascertained from postcodes.

The chart below shows which state respondents lived in.

**Figure 24:** Geographic location – state




Base: all respondents N=29

Four in ten (41%) respondents were from New South Wales, with Queensland the next most represented state. All states except Tasmania were represented in the sample.

## Limitations of our approach

When using the research results, be aware of a number of limitations in the approach.

- **Sample size**. The sample for the study was small so caution should be exercised when attempting to generalise these findings to the overall population.
- **Sample bias**. Our sample may be biased towards people with internet access. Roy Morgan Single Source indicated in 2009 that 87.5% of Australians aged 18 and over have ever accessed the

internet. This proportion was lower among Australians aged 65 and over, and those from lower socioeconomic groups.[19]

Therefore, we do not recommend that our sample be used to estimate the incidence of this type of loss, although it provides a useful indication.

- **Poor recall**. In the interviews we discussed events which occurred several years ago in some instances. Some respondents were unable to recall the timing of these events accurately.
- **Hindsight bias**. People view the past subjectively when being interviewed after the fact, which may lead them to judge events differently now than they did in the past. Also, some people might think differently now because new information has come to light.
- **Impression management**. People may have attempted to present themselves in a favourable light to the researcher and may have been unwilling to admit to some socially unacceptable behaviour, such as gambling or alcoholism.

The researchers used a range of techniques to overcome these limitations. The topic guide we used is in the Appendix (page 70). It will be clear from our findings that our respondents were in many ways very open about their experiences and their emotions. Many of them told us that they took part in the study to help other people, in case this ever happens again.

This study used qualitative research methods to meet the exploratory nature of the objectives. We cannot guarantee that the people who took part in this study are representative of the overall population.

## Other details

The researchers who conducted the interviews were Susan Bell, Suzanne Burdon and Megan Price. We conducted the face to face interviews in homes, workplaces and cafes – wherever suited our respondent. If permission was granted and the environment not too noisy, we audio-taped the face-to-face interviews.

The Survey Village questionnaires were sent out in November 2010. The face-to-face and phone interviews were conducted in December 2010.

Storage of project documents followed best practice privacy guidelines: tapes, notes and transcripts were de-identified. Tapes and transcripts were stored separately; and separately from respondent contact information.

[19] Roy Morgan Research (Jan–Dec 2009)

# Questionnaires

## Question for online panel

In the last 10 years, have you lost money as a result of any of the following?

Please tick all that apply.

1. I received poor financial advice from my financial planner;
2. My financial product or service provider engaged in misconduct* and they were (tick all that apply)
    - an investment scheme?
    - a stockbroker?
    - a margin lender?
    - an insurance company?
    - a superannuation fund?
    - a financial planner
    - someone else with an Australian Financial Services licence#?

* 'misconduct' means failing to give proper disclosure about risks, misleading and deceptive conduct, committing fraud, or breaking the law in some other way.

# 'Australian Financial Services licence' is a licence granted by the Australian Securities and Investment Commission (ASIC) to provide financial products or services.

3. My financial product or service provider collapsed or the financial product I invested in failed (e.g. a managed fund)
4. My financial product under-performed or my shares or superannuation lost value because of the economic downturn.

# Email questionnaire

## A research project on the impacts of financial loss

Hello

We are Sue Bell and Suzanne Burdon, two researchers working with the market and social research agency Susan Bell Research.

Susan Bell Research is conducting a survey on behalf of ASIC's Consumer Advisory Panel (CAP) among people who have suffered financial loss from:

- Poor financial advice; AND/ OR
- The misconduct of their financial services or product provider (i.e. a financial planner, an investment scheme, stockbroker, margin lender, insurance company, superannuation fund, or someone else with an Australian Financial Services licence); AND/OR
- The collapse of their financial services or product provider or the failure of the financial product they invested in.

If you have suffered this kind of financial loss in the last 10 years, would you kindly help us with some more information by completing the questionnaire below?

Your answers will be treated in the strictest confidence and will be used for research purposes only. The researchers will not pass on any identified information to ASIC, ASIC's CAP or to anyone else. Our report will be in the form of anonymous case histories.

We hope that you will answer the following questions for us.

**Q1. Could you tell us which company, business or person caused your financial loss?**
PLEASE WRITE THEIR NAME IN THE BOX BELOW.

Please think very carefully about your answers.

**Q2. Thinking specifically about this, how much did your financial loss change your life?**

- ☐1 My life is the same
- ☐ 2 My life changed a little
- ☐ 3 My life changed a lot
- ☐ 4 My life changed so significantly it will never be the same
- ☐ 5 Other - please tell us: ______________________________

**Q3. Please explain in the box provided how your financial loss most affected you.**

We encourage you to consider how your living arrangements or your work arrangements may have changed ….

Or perhaps how you feel about yourself and your self-esteem ….

Or any effect on your family…..

IF YOU FEEL IT HAS NOT AFFECTED YOU, PLEASE JUST WRITE IN "NONE"

Please be as descriptive as possible, because it will help us understand your situation and that of other people who are in a similar position.

**Q4a. Did any of the following happen to you?**
PLEASE TICK AS FEW OR AS MANY AS YOU LIKE

- ☐1 I had to sell the family home
- ☐2 I can no longer get credit
- ☐3 I was made bankrupt
- ☐4 I and / or one or more members of my family have suffered from depression or anxiety because of what happened
- ☐5 I and / or one or more members of my family have suffered health problems (e.g. heart problems) as a result of what happened
- ☐6 Any other major impact
- ☐7 None of these
- ☐8 Prefer not to say

**Q4b. Could you tell us more about any of the items you ticked - if you haven't already mentioned them in your previous answers.**

**Q5. Do any of the following apply to you, because of what happened?**
PLEASE TICK AS FEW OR AS MANY AS YOU LIKE

- ☐1 I no longer trust financial advisers
- ☐2 I no longer trust banks
- ☐3 I no longer trust the government
- ☐4 Other - please tell us: ____________________
- ☐5 None of these
- ☐6 I am unsure
- ☐7 I prefer not to say

**Q6. Have you sought compensation for your loss?**

- ☐1 Yes, I received full compensation for my loss
- ☐2 Yes, I received partial compensation for my loss
- ☐3 Yes, but I was unsuccessful in obtaining any compensation
- ☐4 Yes, but I do not know whether I will receive compensation yet
- ☐5 No, I chose not to
- ☐6 No, I am not able to
- ☐7 No, I didn't know I could
- ☐8 I prefer not to say

**Q7. Given your current needs and financial responsibilities, would you say that you and your family are:**

- ☐1 Prosperous
- ☐2 Very comfortable
- ☐3 Reasonably comfortable
- ☐4 Just getting along
- ☐5 Poor
- ☐6 Very poor
- ☐ 7 I prefer not to say

**Q8. Since your financial loss, has any of the following happened to you because of a shortage of money?** PLEASE TICK ALL THAT APPLY

- ☐1 I could not pay my electricity, gas or telephone bills on time
- ☐2 I could not pay the mortgage or rent on time
- ☐3 I pawned or sold something
- ☐4 I went without meals
- ☐5 I was unable to heat my home
- ☐6 I asked for financial help from a friend or family member

☐7 I asked for help from a welfare / community organisation

☐8 None of these

☐9 I prefer not to say

**Q9. Please tell us your age.** PLEASE TICK ONE BOX

☐ 15 – 17 years

☐ 18 – 19 years

☐ 20 – 21 years

☐ 22 – 24 years

☐ 25 – 34 years

☐ 35 – 44 years

☐ 45 – 54 years

☐ 55 – 64 years

☐ 65 – 74 years

☐ 75 years or over

**Q10. I am:**

☐ Male ☐ Female

**Q11. I am:**

☐ Employed (including self employed people, and working students) and

- ☐ Usually work 35 hours or more per week
- ☐ Usually work less than 35 hours per week

☐ Not employed but looking for work

☐ Neither employed nor looking for work:

- ☐ Retired
- ☐ Home duties
- ☐ A non-working student
- ☐ Other e.g. unable to work due to illness

**Q12. After this survey is complete, we will be conducting a second round of research to help us understand much more about the impacts that these kinds of events have on people's lives.**

If you take part in the next stage, we will give you a small 'thank you' in cash or we can donate this money on your behalf. The interviews for the next stage will take place in November and December 2010.

Everything you tell us will be treated in the strictest confidence and will be used for research purposes only.

Would you be willing to take part in this second round of research?

☐ Yes – please provide your contact details below ☐ No

**Contact details**

| |
|---|
| Name |
| Address |
| State |

| | |
|---|---|
| Phone | |
| Postcode | |
| Email address | |

Thank you very much. We appreciate your help. We believe that the survey results will help inform the work of ASIC's Consumer Advisory Panel (CAP), and may result in a more informed consumer submission to Mr Richard St John's review into whether a statutory compensation scheme should be introduced in Australia.

Kind regards

Sue Bell and Suzanne Burdon
Susan Bell Research

If you have any questions about this survey please contact Sue Bell on 02 9451 1234 or suebell@lesbell.com.au.

Susan Bell Research is a member of AMSRO, so we are bound by the Market and Social Research Privacy Principles which prohibit the storage and transfer of identified information. Therefore, we will not provide identified information to ASIC, or to any one else outside the research team. Information on these Principles can be found at http://www.amsro.com.au/index.cfm?p=2403 . We can post you a copy, if you ask us to.

We are also members of the Australian Market and Social Research Society (AMSRS) and therefore bound by their professional code of conduct. For information on the code, please see http://www.amsrs.com.au/files/Code_of_Professional_Behaviour.pdf . We can post you a copy, if you ask us to.

You can also check the bona fides of Susan Bell Research by contacting the AMSRS Surveyline on 1300 364 830.

# Interview Guide

**How we conduct the interview**

We have designed the interview to have three distinct stages:

- An introductory 'warm-up' stage.
- The body of the interview.
- Closing stage.

The body of the interview is an unstructured, open ended exploratory conversation. In these kinds of interviews, it is very important that we build rapport and trust with the person we are interviewing. One of the main ways we do that is to listen to them tell their story in their own words.

In these interviews, we already know a few things about what has happened to them, so the aim of our questions is to expand on what we know. However, we have also allowed them to restate some of what they said, to provide context for the interview.

**Three topics**

The three main topics that we will cover in each interview are:

1. How the loss affected them emotionally and socially.
2. How any resultant lack of money has affected their lifestyle, work life or living arrangements.
3. How any attempts to recover their money have affected them – particularly whether the different methods that are available for compensation have different social impacts. Note however that some people might not have sought compensation.

The questions in the topic guide below are an indication of the areas to be covered. Respondents may raise other issues, which we had not considered, and we will probe those to the fullest extent.

**How we ask the questions**

When we ask our questions, we tailor what we say and how we say it to suit the person we are interviewing. The order of questions will vary from person to person, to suit their particular story.

Some of our questions will be direct, such as 'did this affect your retirement plans?'

Others will be expressed more softly and indirectly. We use a range of different projective techniques to ask these 'softer' questions, such as:

- Some people have told me that they had to go further into debt after something similar happened to them …is this the same for you?
- How would your partner describe how you have changed? For example, the person might say that 'my partner thinks that I have become withdrawn' which means that we avoid asking a potentially insensitive question like 'have you become withdrawn?'
- We have designed a mood board of abstract images which we use to encourage people to talk. A draft version of the mood board is at the back of this document. We show the person the mood board and ask them 'Sometimes it is easier to talk about things using pictures not words. Which of these images – if any – capture how you are currently feeling…?' We have chosen a range of images that could represent feeling down; feeling trapped, feeling up-and-down. We then use the image they have chosen to take the conversation further.

The interview is written for a face to face interview. It can easily be adapted to a phone interview.

**What happens if the person becomes distressed**

Our strategy for dealing with a distressed interview depends on the location of the interview, and the level of distress. The options are:

1. Suggest that we take a break and then ask them if they comfortable to proceed.
2. If they are not comfortable proceeding, we ask them if they would like to continue at another time.
3. If they are happy to continue at another time:
    a. If this is a face to face interview in Sydney and Brisbane, we can schedule another face to face interview with that person, or conduct the later part by phone.
    b. If this is a face to face interview anywhere else (e.g. Townsville) we may only be in the area for a few days, so we may have to continue the interview by phone.
    c. If this is a phone interview, we will conduct the second part of the interview by phone as well.
4. If they do not wish to proceed, we will have to decide whether we have sufficient information from this person, or whether we have to replace them with someone else.
5. Provide Lifeline number if needed. 13 11 14.

**If the interviewee wants to use the interview to complain about ASIC or the government**

We will say "I appreciate your raising this, because it is important. However, the purpose of today's interview is to think about the future and to perhaps identify some specific things which could help other people if this ever happens again. Therefore, if you don't mind I am going to bring you back to talking about ……."

Also similarly: "I realise how angry (or …) you are and it is important for ASIC to know that. I do have some specific questions I need to ask you though ……"

**Introduction**

The researcher

- Introduces herself (PROVIDE BUSINESS CARD)
- Explains our independence and objectivity
- Introduces the project: we are conducting this interview for the Consumer Advisory Panel of ASIC.
- Gives them a copy of the information on CAP from the website.
- CAP expects to use the results to inform their submission to a review on the possible need for a compensation scheme if something like this happens again. The federal government has appointed Mr St John to conduct this review.
- Your help now will help future investors.
- (PROVIDE INFORMATION ON THE REVIEW - SEE LATER IN THIS DOCUMENT).
- "I understand that you (USE DETAILS FROM THE EMAIL QUESTIONNAIRE). I am going to ask you to explain how that happened and its impact on you. I will be asking you some personal questions but I do not need to know any financial details at all. I am interested in what happened and how are you are now feeling about it. If there are any questions you are uncomfortable answering, please just let me know. OK? We can stop whenever you like."
- Asks permission to tape
- Explains confidentiality and privacy protected
- Explain that they can withdraw any time and they don't have to answer anything they don't feel comfortable with.

- NOTE TO RESEARCHER: If the interviewee becomes upset during the interview, ask them if they want to proceed. If they don't want to, ask them to reschedule, possibly by phone, or after a break.

**The interview**

| TOPIC | QUESTION EXAMPLE |
|---|---|
| **Their history** | I understand that (*whatever happened – from the email questionnaire*). How had it come about that you had money invested / superannuation with?………. ….Why did you choose that type of investment?<br><br>• Did you invest through a financial planner? (note: a key focus of the research is on the advice given by planners/advisers/brokers)<br>• Did other people you know invest in …….. also? *(it will help us to know if other family members were also affected directly)* |
| • **The stages – especially focusing on attempts to gain compensation and the effects that these compensation processes may have further impacted the person emotionally, socially and financially.**<br>• **We will 'walk' the respondent through the various events.** | • Before all this happened, what was your life like?<br>• Why had you invested in (use appropriate wording) ………… |
| | • You said in your interview that ….<br>• How did you find out that you had lost this money / it looked as if you would lose this money (*use appropriate wording*)<br>• When did you realise?<br>• What did you think / feel at first? (e.g. blame, regret…)<br>• Has that changed? (probe change in state of mind as time passed)<br>• Probe: If some people have moved on' – what helped them move on? If some could not move on, why was that? |
| | **Consumer experiences with existing avenues for compensation:**<br>• You said in your questionnaire that you had / had not sought compensation.<br>• How did that come about?<br>• Did you look for information about compensation? IF SO: where did you look? (probe to see if looked at ASIC website, considered private litigation etc (see below), were assisted by a financial counsellor or State/Territory Legal Aid service).<br>• How long was it before you knew what options were available to you? (Probe: did you consider more than one? Why was that route chosen?)<br>• (If didn't seek) Why did you choose not to seek compensation?<br>• Why were you not successful in gaining compensation (if appropriate)<br>• How did you find out that you could / could not …..? |
| | • CHECK PRIOR TO INTERVIEW WHAT ACTION COULD HAVE BEEN TAKEN FOR THIS TYPE OF LOSS.<br>• ALSO CHECK IF THEY LOOKED INTO / INITIATED ANY OF THESE:<br>• ASIC - s 50 ASIC Act action |

| | |
|---|---|
| | • EDR scheme - Financial Ombudsman Service or the Credit Ombudsman Service Limited<br>• Private Litigation - self or class action<br>• Finance service provider (internal dispute resolution processes)/ other agreements negotiated through ASIC / offers made by the FSP<br>• Administrator / Liquidator |
| | • IF SOUGHT COMPENSATION / TOOK ANY STEPS TO RECOVER THE MONEY:<br>• What action did you take?<br>• What was that experience like? (eg was it helpful, not helpful; easy or difficult ……)<br>• Do you expect to get any of the money back?<br>• IF NO: when did you realise you would not see your money again? (Probe: How long after the loss was this?)<br>• What went well?<br>• What was the most challenging time during the process?<br>• (Probe: When would compensation have been most beneficial to you if it was available?)<br>• How do you feel about the outcome?<br>• How long did it all take?<br>• How do you feel about how long it took?<br>• What has been the impact on you of the compensation process itself?<br>• If you were to have the same experience again, what would be the one thing in the compensation process you would change? (Probe: the time it takes, having to wait, uncertainty, etc) |
| | • YOUR CURRENT SITUATION<br>• How are things today? |
| | • What has been the most significant impact of all this on you?<br>• Why was that the most significant? |
| **Home** | *CHECK THEIR EMAIL QUESTIONNAIRE – MAY NEED TO ASK THIS DIRECTLY (if not already raised by respondent)*<br><br>*PROBE for personal/social/financial impact.*<br>Have you had to move or sell your house?<br>(if sold) Were you able to get the price you wanted?<br>Was this because it was you had used your house as collateral?<br>How much impact has this had on you? On your family? On your feelings about yourself?<br>(Probe whether the person has had to declare they are bankrupt? NB- refer email questionnaire for this) |

| | |
|---|---|
| **Effect on their finances** | • NOTE- CHECK THEIR ANSWERS IN THE EMAIL QUESTIONNAIRE AND PROBE ACCORDINGLY.<br>• How much did the (collapse etc) affect your financial plans?<br>• Was it your lifesavings?<br>• Have you had to sell property or other assets …..?<br>• Were you able to get the price you wanted?<br>• Did you have to go into debt because of your losses?<br>• How did it affect your retirement plans? (also under Work)<br>• Are there things that you won't be able to do now, that you expected to do (for example, retire, travel, help children) |
| **Social Security** | • Are there any things that you are doing now that you wouldn't have expected to do (perhaps relying on social security? charitable donations?) |
| **Work** | • How did it affect your work, if at all?<br>• Have you had to change your retirement plans?<br>• Would you say it has affected your quality of life? PROBE: Can you give me some examples?<br>• Probe: Has this changed abilities to form new professional relationships? [link to no longer trusting at Q5] |
| **Effect on relationships with family and friends** | • What kind of effect has this had on your family and friends?<br>• What do you or they do differently now?<br>• What do you do more of?<br>• What do you do less of?<br>• Probe: has this changed how you feel about going out and mixing with friends or business colleagues?<br>• Has it changed your relationships? Probe: Has this changed their ability to form new personal relationships? [link to no longer trusting at Q5]<br>• As a result of your loss, has there been any financial impact on other members of your family - esp. children?<br>• Has it changed how involved you get in the community? (eg organisations, sport volunteering etc) |
| **Emotional impact** | • What is the best word to describe your emotions since this happened?<br>• I have written some words on this card (see Appendix). Do any of these words capture how you have felt?<br>• Probe: please tell me more about that? (e.g. why do you feel ashamed?)<br>• Probe: any others? |
| | • Has how you feel changed over time? How?<br>• Check re emotional states blame, denial etc |

| | |
|---|---|
| | • IF PROJECTIVE TECHNIQUE NEEDED, USE<br>• Other people have told me that they feel (angry, cranky ….) are you the same as that or different? If so how?<br>• Use the mood diagrams (see appendix). Which of these pictures best captures your mood when you think about this? Can you tell me more about that? |
| | • If I asked your (significant other) about you, what would they say?<br>• Would they say you had changed? IF YES: what do you think they would say? (PROBE: exactly what would they mean by that? Would they have seen changes in your mood, your behaviour, what you eat and drink, for instance?) |
| **Counseling** | • Have you had any / some people we have spoken to have sought … counseling?<br>• IF SO: what counseling did you receive? (Probe: financial/emotional?)<br>• Did it help? How? |
| **Health** | • How has your physical health been since the ……?<br>• And your mental health?<br>• Are there any things you are doing now (that you weren't doing before) that you wish you weren't / need to cut down on….drinking…smoking … |
| **Blame** | • Who do you blame for what happened? Why?<br>• How do you feel about that? (*especially if they blame themselves, to explore impact on self-esteem/ confidence*) |
| **Confidence** | • *IF APPROPRIATE*: In your questionnaire, you said that you have lost confidence in……..can you tell me more about that?<br>• What would need to happen for you to regain that confidence? |
| **Investment and risk taking** | • Has this changed how you are with money? How?<br>• Are you a risk taker or cautious now, with money and investments? How does this compare with how you were then?<br>• What kind of things are you doing?<br>• Note; explore whether they now take more investment risks than they used and if and when that happened |
| **TO FINISH** | • Is there anything else that we haven't covered?<br>• Any other way in which you and your family or community have been affected by all of this? Even something that seems minor?<br>• Is there a good side to any of this? Has the experience had any positive effects? (e.g. assertiveness, warned others |
| | • 'You have been so generous today. I wonder could I ask one more question. If you could give three tips to a new investor today, what would they be?' |

**Close**

- Thank you. I hope that you have felt comfortable sharing your experiences

- As I mentioned, the results will be used to write a report will be submitted to the review initiated by the federal government on the need for a compensation scheme in case this kind of thing happened again.
- I believe that the report will be made public. Would you like me to send you a link to it, when it has available?
- If you think of any questions you wished you had asked me after I have left, please feel free to contact me.
- Pay incentive as agreed.

## ASIC's Consumer Advisory Panel

The Consumer Advisory Panel (CAP) was established in 1999. Its role is to advise ASIC on current consumer protection issues and give feedback on ASIC policies and activities. CAP also advises ASIC on key consumer research and education projects. CAP members from across Australia meet quarterly at ASIC's offices in either Sydney or Melbourne.

The members of CAP are selected to reflect a diverse range of consumer interests in the financial services sector. They include both representatives from consumer and investor organisations and individual members. Membership is varied over time to make sure that a broad range of organisations have the opportunity to participate.

CAP is currently chaired by Jenni Mack. Jenni is chair of CHOICE, a board member of the Financial Ombudsman Service (FOS), chair of both the Banking and Finance Advisory Committee of FOS and Mutuals Advisory Committee of FOS, a trustee of the Travel Compensation Fund and advises the Migration Agents' Registration Authority's Professional Standards Committee. She has been a Deputy Legal Services Commissioner in NSW and Executive Director of the Consumers' Federation of Australia. She has also been a director of two of FOS's predecessor schemes, the Financial Industry Complaints Service and the Insurance Brokers Disputes Limited. She is a former journalist and political adviser. She has a Master's Degree in Administrative Law and Policy.

The other members of CAP for 2010 to 2012 are:

- Australian Council on the Aging
- Australian Financial Counselling and Credit Reform Association
- Australian Investors Association
- Australian Shareholders' Association
- Consumer Credit Legal Centre NSW
- Indigenous Consumer Assistance Network
- Legal Aid Commission of NSW
- National Information Centre on Retirement Investments
- National Seniors Australia

## Information on the Compensation scheme review

(source: http://futureofadvice.treasury.gov.au/content/Content.aspx?doc=faq.htm#Q1_6)

### Statutory Compensation Scheme

What is happening with the review of the statutory compensation scheme?

The Government has engaged Richard St John, who has significant experience in corporate law and regulation, to advise Minister Shorten on the need for, and costs and benefits of, a statutory compensation scheme for financial services.

Mr St John is conducting an independent review of the need for a compensation scheme for financial services.

He is holding preliminary discussions with stakeholders to clarify the problem and key issues for the review. Interested stakeholders can make a submission or request a meeting with Mr St John by emailing futureofadvice@treasury.gov.au.

It is expected that Mr St John will issue a public consultation paper later this year.

Mr St John will report to Minister Shorten on the need for a statutory compensation scheme for financial services by 30 June 2011.

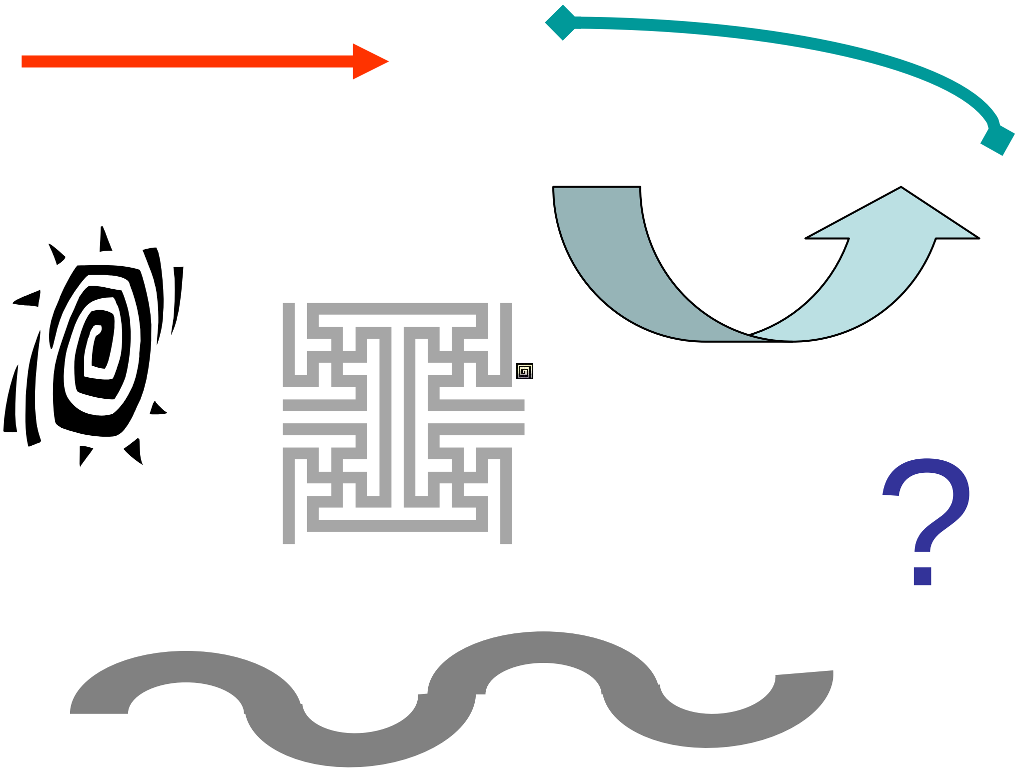
**CARDS**

## Which of these words describe how you have felt?

Ashamed

- Embarrassed
- Angry
- Depressed
- Cranky
- Sad
- Calm
- Resigned

**Mood diagrams**



# Glossary

| | |
|---|---|
| **Age Pension** | The Age Pension is a Centrelink payment which ensures certain persons have an adequate income in retirement. Eligibility for the Age Pension depends on a range of criteria including age, income and assets.<br><br>Source: http://www.centrelink.gov.au/internet/internet.nsf/payments/age_pension.htm (accessed 20110307) |
| **Administration** | Administration, as a legal concept, is a procedure under the insolvency laws of a number of common law jurisdictions. It functions as a rescue mechanism for insolvent companies and allows them to carry on running their business. The process – an alternative to liquidation – is often known as *going into administration*. A company in administration is operated by the Administrator (as interim Chief Executive) on behalf of the creditors as a going concern while options are sought short of liquidation. These options include recapitalising the business, selling the business to new owners, or demerging it into elements that can be sold and closing the remainder.<br><br>Source: http://en.wikipedia.org/wiki/Administration_%28law%29 (accessed 20110211) |
| **AFS licensee / Financial services provider** | Under the Corporations Act, an Australian Financial Services (AFS) licence is required if an entity is providing, or intends to provide, financial services. AFS licensees may be individuals, companies, partnerships or trustees and their licence can authorise them to provide different types of financial services and products (authorisations).<br><br>The types of products and services AFS licensees may provide include banking, superannuation, insurance (general and life), financial advice, insurance broking services, etc.<br><br>Source: http://www.asic.gov.au/asic/asic.nsf/byheadline/AFS+Licensees+Register+?openDocument (accessed 20110211) |
| **Agribusiness managed investment schemes** | 'Agribusiness MIS' is a term used to describe various primary production operations that pool investors' money into a common enterprise using the legal structure defined in the *Corporations Act 2001* (Corporations Act) as a 'managed investment scheme'. Traditionally, the industry has distinguished between those agribusiness MISs that conduct forestry plantations and those involved in non-forestry activities. Non-forestry MIS activities are primarily focused on horticultural enterprises, but also include other primary industries, such as beef cattle, aquaculture and poultry.<br><br>Source: http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/cp133.pdf/$file/cp133.pdf (accessed 20110211) |
| **ASIC** | Australian Securities and Investments Commission |
| **Centrelink** | Centrelink is an Australian Government statutory agency, established to deliver a range of Commonwealth services to the Australian community.<br><br>Source: http://www.centrelink.gov.au/internet/internet.nsf/about_us/index.htm#facts (accessed 20110307) |
| **The Corporations Act** | CORPORATIONS ACT 2001 |
| **COSL** | The Credit Ombudsman Service Limited – an ASIC-approved EDR scheme<br><br>http://www.cosl.com.au/ |
| **EDR scheme** | External Dispute Resolution scheme |

| | |
|---|---|
| **Financial planner** | A financial planner is a type of AFS licensee who provides financial advice so consumers can plan their retirement or invest plans and/or manage risk. Financial planners also act as intermediaries in that they may recommend that their clients invest in certain types of financial products or services based on their retirement or investment plan and risk profile. |
| **FOS** | The Financial Ombudsman Service Limited – an ASIC-approved EDR scheme<br><br>http://fos.org.au/centric/home_page.jsp |
| **Frozen fund** | The term 'frozen fund' is often used to describe a registered managed investment scheme, originally marketed on the basis that investors had an ongoing or periodic right to redeem their investments on request, a right which has since been suspended.<br><br>Source: http://www.moneysmart.gov.au/investing/managed-funds/how-to-buy-and-sell-managed-funds |
| **GFC** | Global Financial Crisis |
| **IDR** | Internal Dispute Resolution. |
| **Investor** | We have used the term 'investor' in this report to refer to the 29 people we interviewed in the qualitative stage |
| **Inappropriate advice** | The giving of financial advice to a consumer without having proper regard to their financial goals and risk appetite. |
| **Liquidation** | In law, liquidation is the process by which a company (or part of a company) is brought to an end, and the assets and property of the company redistributed. Liquidation is also sometimes referred to as winding-up or dissolution, although dissolution technically refers to the last stage of liquidation.<br><br>Source: http://en.wikipedia.org/wiki/Administration_%28law%29 (accessed 20110211) |
| **Managed investment scheme** | Managed investment schemes are also known as 'managed funds', 'pooled investments' or 'collective investments'. Generally in a managed investment scheme:<br>people are brought together to contribute money to get an interest in the scheme ('interests' in a scheme are a type of 'financial product' and are regulated by the Corporations Act 2001)<br>money is pooled together with other investors (often many hundreds or thousands of investors) or used in a common enterprise<br>a 'responsible entity' operates the scheme. Investors do not have day to day control over the operation of the scheme.<br><br>Source: http://www.asic.gov.au/asic/ASIC.NSF/byHeadline/Managed%20investment%20schemes |
| **Margin call** | Consumers of margin loans may be asked to pay a 'margin call' if the market value of their investments fall below a certain level.<br><br>A margin call is essentially a demand to increase the level of assets securing the loan, which may require finding extra cash to pay the lender, selling part of the portfolio to raise cash or giving the lender extra security. The demand often must be met within 24 hours.<br><br>Source: http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/00-022.pdf/$file/00-022.pdf |
| **Margin loan** | A loan that is taken out to invest in shares or managed funds. The investment is used as security for the loan. Margin calls are possible if the value of the investment falls below a set amount.<br><br>Source: http://www.moneysmart.gov.au/glossary/m |
| **Misconduct** | Engaging in conduct that breaches or appears to breach the law. In the case of a financial services provider, not meeting the conduct obligations in the Corporations Act, including not complying with financial services laws, not having properly trained and competent staff, not having adequate risk management systems, etc |

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| **Private class action** | A class action or a representative action is a form of lawsuit in which a large group of people collectively bring a claim to court and/or in which a class of defendants is being sued.<br><br>Source: http://en.wikipedia.org/wiki/Class_action (accessed 20110211) |
| **Scheme owner** | We use this term in the report to refer to the operators of the managed investment scheme |
| **SCT** | Superannuation Complaints Tribunal |
| **s 50 class action** | A class action ASIC can bring on behalf of consumers and investors who have suffered loss or to recover property as a result of the misconduct of their financial services provider. ASIC's power to do this is under s 50 of the ASIC Act. ASIC must consider the class action to be in the public interest. |
| **HILDA** | The Household, Income and Labour Dynamics in Australia (HILDA) Survey is a household-based panel study which began in 2001. It has the following key features<br>It collects information about economic and subjective well-being, labour market dynamics and family dynamics.<br><br>Special questionnaire modules are included each wave.<br><br>The wave 1 panel consisted of 7,682 households and 19,914 individuals.<br><br>Interviews are conducted annually with all adult members of each household.<br>The panel members are followed over time.<br><br>The funding has been guaranteed for twelve waves, though the survey is designed to continue for longer than this.<br><br>Academic and other researchers can apply to use the General Release datasets for their research.<br><br>Release 9 of the HILDA data (waves 1 to 9) is now available. |