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To The Australian Banking Association,

In response to the consultation paper *'Every Customer Counts, Better banking for vulnerable customers' (*19 March 2019) - due by 10 May 2019 – my vulnerability was exploited by the financial market. In 1998 after receiving a compensation settlement for debilitating injuries I was ordered by the court to set up a superannuation account. A second legal opinion informed that the only other option other than to follow the court order was to become a ward of the State and strongly recommended against this option. So under difficult health circumstances the superannuation I was compelled into provide a disability pension relying on banking and the financial services industry.

A decade later I was fleeced. Thus I join the ranks of the tens of thousands of ordinary Australians who have been stripped of their asset by banking, superannuation or financial services industry.

In 2008 at the time of the Global Financial Crisis, I moved assets into the Astarra Strategic fund. ASF was regulated and licenced by the Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulatory Authority (APRA). ASF was under the management of Trio Capital Limited, boasting good reviews by research houses and star rating firms. In September 2009 an industry participant alerted ASIC of fraudulent activity in Trio. Six months later ASIC confirmed that Trio's assets appear to have disappeared.

Part 23 of the Superannuation Industry (Supervision) Act 1993 (SIS Act) compensated the APRA-regulated super funds. Other types of superannuation including direct investors were told tough luck – "buyer-beware". Not all financial advisors had known about 'Part 23' some had been in business for over twenty years and not heard of Part 23. APRA solely protected SIS Act members without informing the market. The prudential regulator's concern in 2006 about the Trio directors being a 'bunch of incompetence' was never mentioned or passed on to the market. Had I known that APRA reached this conclusion, I could have made an informed decision to move my investment.

In 2003 APRA attended two meetings to help shape Part 23 of the SIS Act. The first, *'Review of Part 23 of the Superannuation Industry (Supervision) Act 1993 – Industry Consultation'* had 4 APRA representatives out of 16 attendees. The second meeting, '*the Review of Part 23 – Industry Roundtable Meeting*' had 4 APRA representatives out of ten attendees. Important decisions were made about self-managed superannuation fund's security and no SMSF representatives were present. APRA never informed SMSF trustees or the market about its part in shaping Part 23.

In 2012 the Parliamentary Joint Commission (PJC) found that industry and consumers held different expectations. The PJC called the differences "expectation gaps". Consumers thought Custodians protect assets. ANZ and NAB, the custodian of the Astarra Strategic Fund, claimed it's the Trio director's responsibility for investment decisions.

In 2017 another perspective emerged when news of the Commonwealth Bank of Australia faced charges for breaching The Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act). The CBA allowed a bikie gang member to send ill-gotten gains via an international transfer machine and when the issue came to police attention, it raised concerns about the bank's responsibilities and obligations under the AML/CTF Act. In regards to the Trio matter, the transfer of honest hard-earned savings of Australians to undisclosed locations (2004 to 2009) didn't raise money-laundering concerns. The Trio victims understand that no suspicious money transactions reports were made to AUSTRAC despite one transfer was $55 million! Shortly after the $55 million was received by Trio's overseas underlying fund, the money vanished. ASIC did not bother to question that specific fund fund managers.

ASIC covered-up evidence fed misinformation and supported a narrative that misled the public about Trio. In 2017 and 2018 the Trio victims discovered that ASIC withheld vital information about the Trio fraud from the Supreme Court of NSW, denied information to the PJC inquiry, and politicised a crime by turning it into an issue about 'poor financial advice'. Furthermore, Minister for Financial Services and Superannuation, Bill Shorten, supported ASIC's action of going after 1 financial advisor out of 155 who had clients in Trio. That particular financial advisor had recommended Trio products to the Australian Workers Union (AWU) slush fund and the slush fund consequently lost its money in the Trio fraud. ASIC's action against 1 of 155 advisors is perceived as Mr Shorten's revenge.

In 2013 Senator Mathias Cormann had suggested an independent investigation into Trio to resolve outstanding issues. Then in April 2016 Kelly O'Dwyer released a media statement, *'The Government considered the action taken by the financial regulators, ASIC and APRA, and is satisfied that in relation to the collapse of Trio, both regulators carried out their roles and responsibilities appropriately, in accordance with the law and the regulatory framework.'*
Thus the Coalition government signalled the closing of the book on Trio.

In 2016 Scott Morrison stated ASIC and APRA were the "tough cops on the beat". But according to commissioner Kenneth Hayne, ASIC and APRA weren't tough; they were reluctant to act against misconduct in banking, superannuation and financial services industry. The Coalition government got it wrong about the Banking Royal Commission; they also got it wrong about the Trio fraud.

Mr Morrison got it wrong when he blamed bank victims for bank crimes saying they are "complicit" for being too "passive". Mr Shorten got it wrong when he blamed the Trio victims, saying, *"I believe in caveat emptor; Latin for "let the buyer beware" meaning you need to take responsibility for your own decisions, if you buy something without doing your homework, well, you're an adult, that's your responsibility."*

Commissioner Kenneth Hayne said in the interim report that *'the regulatory regime is too complex as its been built around disclosure and "buyer beware". There are reams of detailed requirements about what the information institutions must provide their customers, but this hasn't ensured fair and valuable products and services. A simpler law would require institutions to deliver fair consumer outcomes - a shift to "seller beware" - providing greater accountability and allowing competition to work the way it is intended: to benefit consumers'*.
The buyer / seller point wasn't raised in Kenneth Hayne's final report. Consumers remain vulnerable to theft at the excuse of "buyer beware".

As a vulnerable banking / superannuation - consumer / customer, I indirectly paid tax on assets that didn't exist. Indirectly I paid for a custodian service; ASIC licences; APRA prudential reviews; auditing of Trio; etc., etc., well after my money had long ago disappeared. I was charged for services that failed to identify that assets no longer existed. The entire financial system was deceived. The entire financial system carried on operating as if the assets existed.

The industry was beneficiary over its own shortcomings. The industry made money in the same way the systemic fee gouging and dishonesty asset stripping made money. It is the individual, the victim of the fraud who carries the costs followed by a readiness to blame using "buyer-beware".

The Australian Banking Association consultation paper asks,
1) Do you support including industry level guidance on preventing scams in the Guideline?

Shouldn't people compelled into superannuation deserve a safety net?
Should a safety net extend beyond the banking sector?
Should all customers benefit a safety not just the vulnerable?
Elder financial abuse is acknowledged, what about financial stress?
Financial stress has been a contributing factor in people taking their life by suicide.
Will the ABA push to have financial stress officially recognised?

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