

Open Follow-up Letter
Stephen Jones MP
Shadow Assistant Treasurer
Shadow Minister for Financial Services
10 March 2022

Dear Stephen Jones MP,

The Victims of Financial Fraud did not receive a reply to the Open Letter addressed to you, dated 21 February 2022. Today we send this Open Follow-up letter.

Alexs Vickovich in the Australian Financial Review article, *'Push to slug fundies with bill for losses'* 15 November 2021 p19 writes, *'financial planning sector lobbyists warned that investors in failed funds had become homeless and lost a total of \$40.23 billion since 1 January 2008.'* The Astarra Strategic Fund under Trio Capital was one of those failed funds.

While the \$40.23 billion was disappearing, consumers were never informed that ASIC didn't have the tool kit to stop consumer losses. Only recently did ASIC's Chairman Mr Longo finally inform the Senate Economics References Committee's Sterling Income Trust inquiry on the 15 December 2021, that ASIC's *'regulatory tools and resources are not intended or able to prevent many of the losses that retail investors and financial consumers will experience from time to time'*.

Mr Longo claimed, *'This is true of every financial market regulator.'*

He did not provide any evidence to support his claim. In fact, there is evidence that suggests the opposite. For example,

In the United States, Stephen Saccoccia in 1993 was sentenced to a 660-year life sentence without parole for laundering money and Bernie Madoff was sentenced in 2009 to a 150-year prison term for engineering a fraud.

In Canada, Brooks Thomas Nesbitt stole \$14.5 million from victims through various boiler room fraud schemes and in 2020 was sentenced to 10 years and 1 month in federal prison.

In the United Kingdom, Artem Terzyan (Russian) and Deivis Grochiatskij (Lithuanian) were sentenced in 2021 to a total of 33 years for laundering nearly US\$95 million.

In Australia, Shawn Richard (Canadian) orchestrated the largest superannuation fraud in Australian history with losses about \$200 million with over 6,000 victims. He was sentenced to 33 months in a prison that allowed weekend excursions to the beach.

International fraudsters regard Australia as a paradise for white-collar crime whereas the long prison sentences for financial theft in other jurisdictions act as a deterrent.

White-collar criminals could not achieve the theft of other people's money without the help/incompetence of ASIC and APRA. ASIC licensed the criminals who had no relevant industry qualifications, who lied in their license applications and who then went on to defraud the entire financial system at every level.

As consumers of financial services, investors are entitled to rely on ASIC and APRA as the gatekeepers of the industry. Investors are entitled to rely on the trustees and custodians NAB and ANZ banks. Investors are entitled to rely on internal auditors KPMG and external auditors WHK not to mention annual APRA audits. Surely investors are entitled to rely on research houses Morningstar, Van Eyk Aegis and Van Mac?

ASIC has gone to extraordinary lengths to blame one advisor whose professional insurance policy would not respond to negligence allegations as the advisor was not involved in the fraud. ASIC spent years and millions of dollars pursuing a single advisor while it spared the rest of the industry participants that we as investors relied on.

However, there was no attempt made to compel the Trio insurer to make good the losses when the Trio insurance policy had specific provision for fraud [an ASIC requirement for fund managers]. VOFF perceive this inaction against the Trio insurers as a direct protection of the big end of town while mum and dad investors are left empty handed and distraught.

VOFF is concerned by the Australian Electoral Commission's data as pointed out by The Independently Owned Financial Professionals in its letter to Parliamentarians dated 21 November 2021. VOFF perceive the political donations influence political decisions, seen in the way the big end of town escape accountability for misconduct and the consequences of that misconduct upon victims politicians ignore.

If and when there is a collapse, victims of financial crime urgently need a 'just' Compensation Scheme of Last Resort. Victims deserve to be able to lodge a complaint to an independent body / organization that can make a determination as to whether the victim is entitled to compensation. ASIC can help in these type of situations by providing an accurate and honest report that distinguishes between a bad product and poor financial advice. Will the Labor Party support such a just CSLR?

I am afraid the claim of being outside the flags only mischaracterised the truth in order to blame the victims - a topic akin to your recent passionate speech to parliament.

It is imperative for Australian's to learn if you and the Labor Government will challenge the Morrison Government and announce a retrospective fund back to 2008 as Kenneth Hayne recommended, regardless of whether the fund manager was a member of AFCA. Millions of Australian superannuation account holders have a keen interest to learn the Labor Government's position as to whether it will support of a just CSLR.

Awaiting your reply.

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VOFF website homepage is: <http://www.mysuperrights.info/>