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How safe is super?

If you (or someone you know) hasn't yet suffered an attempted 'super-scam', the odds are that sometime soon it will happen. Scammers see the multi-trillion-dollar pool of long-term savings as just too enticing – and Australians as just too trusting.

Which begs the question, just how safe is superannuation?

Superannuation is generally regarded as being inviolable. Legal and fiduciary safeguards surrounding superannuation are designed to ensure that retirement savings are held and invested with appropriate safeguards. Nevertheless, other threats abound which mean we must remain vigilant – and if needed, to take action to protect elderly and vulnerable friends and family.

The first and most obvious layer of legal protection lies within the nature of the superannuation trust structure itself.

Whether privately run (i.e., as an SMSF) or a regulated, public offer fund, superannuation trustees have duties and obligations which relate, primarily, to holding assets for the benefit of superannuation fund members, or the beneficiaries of members. These obligations and responsibilities are not just moral obligations – they are enforceable at law.

Further safeguards apply to the parameters within which superannuation funds are allowed to invest.

The trustees of many public-offer superannuation funds provide investment platforms offering a wide range of high-quality investment options, options which are subject not only to their due diligence process, but observance of specific superannuation regulations. For example, direct property is not available in retail or industry super funds, due to the inability to adequately assess the risks associated with this type of investment. (In this space, the trustees are also required to carry professional indemnity insurance, to provide additional member protection).

Whilst direct property investments can be held via a Self-Managed Superannuation Fund (SMSF), the options here are also limited. To demonstrate this point, you can't put your 'weekender' into your SMSF.

A competent financial adviser will tailor the asset allocation of a retail superannuation portfolio to suit investment risk profile of each member, while also ensuring that it is adequately diversified by asset class. This is done by selecting underlying investments from an investment menu which not only meets trustee standards, but also meets their own due diligence processes. The safeguards don't stop there.

An 'arm's length' administration team will then purchase the investments (as per the recommended portfolio structure) on behalf of the member. The trustee is required to follow the directions on where and how much to invest. For members of retail funds, the investments are held by a second arm's length custodian (rather than directly by the fund managers selected on the member's behalf) as a further safeguard to ensure that funds are held securely.

To understand how these multiple layers of protection can work in a doomsday scenario, it is worth revisiting the GFC and the collapse of Lehman Brothers in 2008.

After Lehman Brothers filed for bankruptcy, global markets immediately plummeted. The following day, Barclays Bank announced its agreement to purchase Lehman's North American investment-banking and trading divisions, with the result that there was no change or loss in the underlying investments. The trustee and custodial arrangements worked precisely as they are designed to do. Client funds invested with Lehman Brothers investment platforms were not lost because of Lehman's demise.

The system worked to protect their investors. It was only the shareholders of Lehman Brothers who saw those shares become worthless (which is precisely why investment diversification is so important).

But what about 'identity fraud' and the sophistication of associated scams?

The benefit of the 'Know Your Client' rule is that all financial product providers and financial advisers are required to be certain about who they are dealing with.

Prudent financial planning organisations (including my own) have actually reinstated some old-fashioned paper-based systems designed to ensure that the 'person' making a transaction request is actually the owner of the money.

For example, if an investment platform administrator receives an email request to transfer or credit funds to a bank account which is not recorded on their system, the fund trustee will contact the advisory firm to verify the request. If after contacting the client, the change of bank details is verified, we will arrange for completion of a signed paper-based change of bank account form with the new details (plus a signature check). This slows down the process a little, but it makes it certain the right person receives the cash.

These and similar processes form part of our obligations, with a further safety net provided by Professional Indemnity Insurance – a requirement of our Australian Financial Services Licence and designed to provide protection to our clients in the event of a mistake which causes harm to their financial position.

As a further safety measure, you should always check that your financial adviser does not 'hold' superannuation contributions or invested funds, or manage your money 'in house'. All superannuation investments must be directed to an arm's length superannuation account which is held in trust for a specific superannuation fund member.

There is also the issue of protecting elderly or vulnerable friends and family.

If you hold a Power of Attorney for a family member or friend, make sure (in their presence) that you get to know their financial adviser personally. Ideally, you should strive to keep all of the family and/or friends who have a role in caring for that individual, well aware of their situation. Ensure that the strongest level of password protection is used – and if they can easily be exploited (due to dementia or other cognitive difficulties) ensure there are two approvals required for any irregular transfer requests.

All of the above considerations relate to a complex series of safeguards which make it very difficult for superannuation to be stolen or misdirected. Nevertheless, the ultimate protector is you. Keep an eye on your finances (and those of others for who you have responsibility). If you see anything odd, or any unsolicited approaches are received, be cautious. Let your financial adviser know ASAP so that they too, can be on the alert.

Theo Marinis is Managing Director of Marinis Financial Group

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For further information, please contact:

MARINIS
FINANCIAL GROUP

Theo Marinis B.A., B.Ec., CPA., CFP®
Financial Strategies (SA) Pty Ltd
Trading as Marinis Financial Group
T 08 8130 5130
F 08 8331 9161
E admin@marinisgroup.com.au
W marinisgroup.com.au
A 49 Beulah Road
NORWOOD SA 5067

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