Seniors/Investors lose over $1 Billion in Australia.

In the past several years, more than 30,000 seniors and investors in Australia have lost at least $1 Billion, which is either part or all of their life savings to financial scams.
"Mr Knott admitted in 2001 that over $350 million was lost in Queensland alone – mostly by Melbourne lawyers".Ref DB
For some, the amount of time gone by has been at least six years…. with no result or reparation from the "clever" perpetrators.
Many in Tasmania have endured loss for the past six or more years and a similar situation applies to Western Australia (with the collapse of the Finance Broking Industry)

Australia has been very slow from legislating against corporate crime in all its forms, as the US has done.
As Dick Grasso of the New York stock exchange recently said;
"There is no more powerful deterrent for corporate offenders than to see dishonest executives on TV paraded through the streets in handcuffs".

Why did so many of us have to lose capital before the authorities 'wake up' to the need to confront issues of corporate/professional dishonesty and mismanagement?

Social security benefits are increasing,
"It is worth reminding politicians and the public; that "Older" Australians are not a burden on society that many people believe.
*By contributing $43 million a year in unpaid service to the community, combined with the unheralded but very significant contribution to the national coffers by not claiming entitlements to social service pensions, self funded retirees and others are actually contributing to the national economy."….*Alan Beaton AIR SA

First Mortgage and LVR (66%) details 8/4/03
Federal Court decision 2nd April 2003
Justice Heerey (Federal Court), handed down his decision as to who has priority on the net proceeds of the sale of the property in question: namely Rutherglen Holiday Village at Hadspen, Tasmania.
There are five 1st mortgages in this loan.
Justice Heerey has decided that - and we cannot quote the total seven-page document - but it is basically favouring the FIRST REGISTERED MORTGAGE (the banks) - with any surplus funds going to investors in SUBSEQUENT MORTGAGES in order of priority (date) of registration.
"First mortgages risk losing 50% and 2nd and 3rd mortgages will experience 100% loss" ref DB

Financial fraudsters are alive and well in our community.
The 'eyecatcher' for most people is the promise and guarantee of high returns, but instead of the promised high returns they lose the lot.

Richard D Holmes, P O Box 322, Mandurah WA 6210

The Australian Securities and Investment Commission [ASIC] says that you should be wary of any investment that promises more than 1.5% to 2% per year more than the average return of similar types of investments.
Numerous companies are currently offering 8% to 12% even more and registered with ASIC shown on the prospectus(s).

In fact, in the past three years, over $1 Billion has been lost as stated on Current Affair in 2001. With schemes employed in Mezzanine Mortgages and "Spruiker" scandals the amount could well be approaching $2 Billion.
ASIC has admitted 8 "spruikers" with $20 - $60 million loss each. There are 30 'spruikers' most of whom are still active. Ref DB

According to ASIC, scamsters go to a lot trouble (deception) to:

- Print attractive documents and set up a business-like website.
- Choose names that sound like reputable companies
- Tell a persuasive story using the right jargon
- Drop the names of people you know to build your trust.

The best defence against shonky investments is;
Apart from dealing with Australian businesses that have a licence issued by ASIC to sell financial products or give financial advice, the best protection you can have is to be financially literate.
That means having a sound knowledge of basic finance and investment principles.*(including law, but if the 'goal posts' are being moved…its difficult)*

Types of Investment Schemes.
There are various types of managed investment schemes under the Corporations Law, namely,

• Registered schemes. A scheme must be registered if it has more than 20 members, is promoted by a person who is in the business of promoting managed investment schemes or is subject to an ASIC requirement that it be registered.

• ASIC - exempt schemes. ASIC may exempt schemes that may otherwise be required to be registered. ASIC has exercised its power both by class order and on a case-by-case basis.

• Other unregistered schemes. These schemes are those mat do not require registration because there are fewer than 20 members, or all interests in the schemes that have been issued are excluded from the fundraising requirements."
Source; <miareview.treasury.gov.au/content/publicsubmission.asp>

Credit/default risk.

This is the risk that the issuer cannot repay the investor's interest and/or capital in full and on time. A good credit rating by an independent and reputable credit rating agency, such as Standard & Poor's, can give investors a measure of confidence to compare the relative risks of different investments.

But unfortunately some issuers have not been rated in this way which can make it difficult to gauge the financial health of the issuer.

It is prudent to check the rating of fixed interest investments before buying them.

Credit ratings are generally broken into two groups:

- Investment grade – ranging from AAA which represents the highest credit quality to BBB, good credit quality.
- Non investment grade – ranging from BB which is viewed as speculative to D which is classed as default.

Generally as the credit rating decreases, the risk of potential default increases, so an investor should seek a higher return as compensation.

Investors should also check out that this level of risk is appropriate for their own risk tolerance or profile. (*inTouch, summer 2003*)

Labor Party warns shareholders.

The Opposition spokesman for Financial Services and Corporate Governance, Senator Stephen Conroy says recent advice from ASIC suggests companies can use shareholder resolutions to circumvent the consequences of the Corporations Act.

"ASIC is saying that a company can (by arrangement with its shareholders) override parts of the Corporations Act such as the 100 member rule in terms of both proposing resolutions and calling company meetings", he says.

"This has unprecedented implications for the interpretation of the Corporations Act and all shareholders in Australia should be alert and alarmed over this development."

Litigation in Western Aust.

Proceedings have begun after more than two years of investigations and will be ongoing. Insolvency Management Fund [IMF] and Solomon Bros (lawyers) have combined to act in the interests of almost 3000 clients which equates to some 500 groups of clients, ie, one group for each mortgage.

It would appear that grounds for litigation proceedings have been found by IMF and Solomon Bros (lawyers) but ASIC do not have the capacity to investigate and charge the scammsters??

Proceedings in Tasmania.

The Investors/Retirees Action Group in Tasmania has been 'fighting' for six years for a return of investor's money from "shonky" lawyer's funds.

Almost 1400 people have been affected and have lost savings.

The Attorney-General (Mrs. Jackson) is preparing legislation to amend the Legal Profession Act with respect to activities of the Law Society in that State.

In South Australia;
Over 180 investors lost $26 million when Growden's collapsed in 1997.
Source; RECA #6.

Sen Ian Campbell has advised the following:
"Despite the Commonwealth's limited power to regulate real estate agents, I am concerned that certain activities of real estate agents and property marketers may not be adequately regulated at the moment. I meet on a regular basis with consumer affairs Ministers from States and Territories, and it is likely this issue will be discussed at the next such meeting." Dated 12 Aug 2003

Real Estate "Insurance" (Indemnification?)
"where a real estate agent provides advise, for example, concerning insurance relating to real property or real estate based-managed investment schemes, that advise would be considered financial product advice and come within the regulatory framework of the Corporations Act 2001, hence be subject to regulation by the ASIC".
Source; **Sen Ian Campbell 12 Aug 2003 letter.**

What they said…..

Private Mortgage Lending.

Private mortgage lending is an alternative for those seeking a higher return without increase in risk. All loans are by way of first registered mortgage over real estate. The amount lent does not exceed two-thirds (66%) of the value of the property as determined by a registered valuer.
There is a perception that private mortgage funding is funding of the last resort. This is not correct."
Terry Boyce of Boyce Garrick Eastman, Solicitors, Attorneys Notaries Oct 1995

"The public can rest assured of this: that investigative agencies will be tasked by this government to bring anybody who has broken the law to trial"

Federal treasurer, Peter Costello AFR 21. 04. 03

"John Howard believes in self-regulation and light-touch regulation, but corporate greed and excess and the HIH collapse show that light-touch regulation has failed."

Fed Opp. Sen. Stephen Conroy. AFR April 03.

"We also welcome any measures that may be introduced to further clarify regulatory overlaps between ASIC and APRA."

ASIC chairman David Knott. AFR April '03

This is the most comprehensive report on the Australian general insurance industry I have seen. There will never be another HIH….A new aggressive approach by the regulator is fine, we're not going to let APRA beat up on us."

Raymond Jones, ICA Pres and QBE Managing director. April '03

"[Parts of the commission were] an enormous waste of time and money."

Malcolm Turnbull. April '03

Assoc. of Independent Retirees [AIR] recommends;

1. That the Commonwealth Govt. introduces legislated measures to ensure financial recovery of capital lost as a direct consequence of fraud. Lack of fiduciary responsibility, embezzlement, misappropriation and other related matters.

2. That the Commonwealth Govt. provide financial relief for victims who suffer loss as a direct consequence of financial industry, through associated professional services, fraud, fiduciary defect or negligent behaviour, similar to that applied to victims of the HIH collapse which established precedent that government sponsored relief for victims of fraud and related acts is justifiable at the governments discretion.

3. That the Commonwealth Govt. increase its spending on regulatory authorities for corporate governance by at least 50% over the next three years to protect public interest against suspected and established fraud or breach of fiduciary responsibility.

Further,
"The Queensland Law Soc. faces being sued by its own investigators for work related stress and cannot properly investigate solicitors because caseloads are excessive."
Hedley Thomas. Courier Mail 16. 04 .03

Dr Ros Altmann B.Sc.[Econ] Hons. Ph.D.,MSI. Says;

I have read your piece about the mortgage problem you suffered from and certainly, it does seem to be similar to the problems suffered by those who have 'lost' their pensions in the UK, when their company became insolvent. It is amazing to me that countries, which have spent so much money on regulators and legal processes designed to protect investors, still have not stopped such events occurring. I think that the real outrage is that nobody warned the investors or 'customers' that there was such a risk to their money. They invested in good faith, assuming they would be protected if things went wrong, only to find that the law has let them down. As to what can be done about this, I guess it is only continued pressure from those affected and their supporters that will get anything changed. (26 04 03)

Alan Beaton, Pres, AIR SA said;
"Our insistence must favour a finance industry default indemnity scheme that will restore 'defrauded' capital. We must stand out in support of actions that will strip the dishonest of their ill-gotten gains.
That's at the heart of every fraud victims concern – The need to restore capital by seizing past, present and future family asset bases."

ASIC.
….. investigate 1 in 50 and gaol 1 in 250, from 8000 complaints per year. They have taken CIVIL action and therefore decriminalised the activities of brokers and financial planners. The Corp Law defines these activities as "criminal" and ASIC is reinventing the law…to go soft on white-collar crime. (DB)
Yet CIVIL offences are much easier to prove and would result in reparation, acceptable to most.
ASIC said; In the last 10 years more than 100,000 investors have lost their life savings. They also said; "Read a chapter from our book 'Scams and Swindlers' about a Ponzi scheme that went horribly wrong and how 34 investors lost $6.5 million".
Source; www.asic.gov.au/fido/fido.nsf/byheadline/Ponzi+schemes?opendocument
<http://www.asic.gov.au/fido/fido.nsf/byheadline/Ponzi+schemes?opendocument>

Sources; "In Touch" (ING), ASIC, IQ (Colonial F.S.), Money Management, The Investors/Retirees Action Group, Alan Beaton (AIR, SA), Dr Ros Altmann UK. …with apologies to those not acknowledged.