

# **Superannuation Fraud**

*Academic paper by Peter John Lynch  
(PJL) of Lynch Investigations &  
Countermeasures Pty Ltd.*

*Grad. Cert. Fraud Investigations (CSU)  
Adv. Dip. Gov Fraud Control Management  
Adv. Dip. Security Risk Management  
[www.pjlinvestigations.com.au](http://www.pjlinvestigations.com.au)*

Superannuation is a requirement by legislation of a percentage of wages to be paid into a superannuation fund. Superannuation funds can range from a single self-employed to large government and non-government enterprises.

The legislation to enforce payment to funds is called Superannuation Guarantee Charge under federal legislation. It was thought that a publicly funded pension on its own would not be enough to provide a secure and prosperous future for retirement therefore superannuation was importantly introduced to provide a main source of income in retirement.

Auditors, administrators, trustees and regulatory bodies have the ability to control and access these retirement funds; these are the means by which fraudulent activity takes place within superannuation funds administration.

How secure are these superannuation funds? What will result if the industry remained as it has in the past and present?

In Australia theft and fraud of superannuation funds are slowly emerging and experts have warned the industry of its vulnerability to criminal activity.

Superannuation funds remain from do it yourself funds (excluded funds), industry funds, public offer funds, public sector funds, pooled and master funds all of which are at different sizes with different numbers of trust managers required with auditing requirements and compliance programs.

Also are the governing bodies, Insurance and Superannuation Commission to supervise superannuation compliance which is audited by the ANAO, The Australian National Audit Office that ensures payment of money to correct funds, under the superannuation guarantee Act. The ISC also works alongside with the ATO to ensure mandatory taxation payments to ATO.

A complex array of fund types and reporting requirements allows for a varied opportunity for fraud of superannuation benefits and revenue.

As Freiberg (1996, p.1) states, ‘in England the Maxwell fiasco had affected 30,000 people, an outstanding example of exposed weaknesses in the system of regulating pension funds, were 900 million dollars of two of Robert Maxwell’s companies, that had been allegedly stolen from the pension funds of two of his public companies.’ As Freiberg (1996, p.2) states ‘available information indicates fraud mismanagement and breaches of prudential rules that lead to the massive fraud.’

This is an example that superannuation funds are vulnerable to trustees without adequate checks, acting at the direction of the employer or to publicly criticised practices such as employers refunding surplus superannuation funds to their own balance sheets.

(*R v Jacobs* (1993) County Court VIC unreported cited in Freiberg 1996 p.7) states ‘there was also another case MFG major fraud group that had been working in Australia where Victorian Police had successfully prosecuted an accountant who was acting as a trustee. Over an eleven-year period he had performed eight thefts totaling 600,000 dollars.’

As Freiberg (1996, P.7) stated ‘problems have been identified in the investigations range from improper registration, use of fund assets, collusion between trustees and fund managers in overcharging fees or paying unauthorised expenses, falsification of records, misappropriation of assets, improper or bogus loans to interested parties and failure to pay benefits.

With superannuation and taxation systems being uncoupled, remains open to opportunity of revenue fraud.’

If supervisors like the ISC (Insurance Superannuation Commission) do not address these issues of superannuation loss, you cannot expect honesty of companies to report to it.

If the issues unadvised cause a flood of fraudulent loss due to superannuation fraud through rogue or imprudent investment practices, this could lead to loss of public confidence in the financial system and destabilise it.

Failure to maintain the superannuation system and cast more people onto the social security system supported by fewer and fewer workers, would render the country of Australia a heavy price to pay for not implementing regulation and enforcement where the weaknesses of superannuation fraud are found.



## References

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