PAGE TWO

JENNIFER HEWETT

Netwealth delivers a hot potato to Mulino

Financial Services Minister Daniel Mulino. PHOTO: ALEX ELLINGHAUSEN

Wealth management business Netwealth is determined to try to force Financial Services Minister Daniel Mulino to make a tough choice – sooner rather than later.

Thousands of Australians who have lost close to $500 million by investing in the failed managed investment scheme, First Guardian Master Fund, via APRA-regulated funds will anxiously await his answer.

In a letter last Friday, Netwealth is effectively asking the government to take responsibility for compensating its 1088 fund members who lost $101 million by investing in First Guardian via financial advisers using the Netwealth platform.

Other platform trustees caught up in the First Guardian failure will now also pursue this option with government.

Mulino will not make any decision before being extensively briefed and may prove reluctant to pre-empt the courts. But the request will intensify demands on him from anguished victims of the failed fund for urgent help while producing conflicting pressures from the super and wealth management industry.

Netwealth doesn't specify whether compensation should be paid for by taxpayers or through an additional levy on members of all superannuation funds as a form of insurance. Any proposal will divide the super industry with the not-for-profit industry funds particularly opposed to this style of consumer protection for fraud being extended to commercial wealth management platforms and trustees.

The shocking failure of both First Guardian and Shield Master Fund – leading to investor losses of about $1 billion – has focused belated attention on the adequacy of due diligence done by research houses, advisers, regulators and wealth management businesses when allowing investment products onto their platforms.

The myriad investigations and legal cases under way has certainly intensified criticism of regulators for not acting fast enough despite repeated warnings of suspicious behaviour, including from Netwealth.

But according to their many critics, the idea of a government bailout sets a dangerous precedent in making up for trustees' lack of appropriate supervision over the range of products available on platforms.

According to Netwealth, it will otherwise take too long for consumers to receive any compensation when there's clear evidence of fraud at First Guardian and where there's a quick alternative available to help thousands of distraught victims.

In contrast, Macquarie itself repaid $321 million to those investors who lost money by investing in Shield Master Fund when it was on the Macquarie platform. It is now infuriating fund managers and planners by also preparing to dump many other investment options it had previously allowed. Yet Macquarie is likely to receive back about 80¢ in the dollar from the remaining assets of Shield Master Fund after it was placed into liquidation.

The majority of First Guardian's assets were sent offshore or lost due to outright fraud rather than incompetence. Netwealth believes paying out would set a bad legal precedent and only encourage greater fraudulent activity. That argument is unlikely to persuade its suffering individual members. Over to you, Dan.

The stand-off is an example of financial risks to consumers lurking in any weak links in Australia's vast compulsory superannuation system.

"While Netwealth's position remains that it complied with all relevant laws in making FGMF available on its platform, should a claim against Netwealth be established, the company has the resources to honour any resulting legal or monetary obligations," the board said in its letter.

The stand-off is an example of financial risks to consumers lurking in any weak links in Australia's vast compulsory superannuation system, risks likely to be compounded by the rise in financial cyberattacks. It also raises the question of how far and how fast the government should go in making up for super losses suffered by individuals.

Platforms argue that government intervention is necessary to reinforce vital consumer trust in the super system while maintaining the benefits of consumer choice. Competitors argue it just demonstrates the need for cleaning up the investment products offered on "the wild west" of platforms. The Financial Services Council was reviewing governance issues to ensure minimum standards are maintained across the industry. That won't help those who've lost out already.

Increasing numbers of high-wealth retirees or people close to retirement are moving away from industry funds in favour of financial advisers who help manage investments using platforms. Some wealth management businesses like Netwealth retain the trustee role on their platforms, while other wealth managers like HUB24 outsource it to groups like Equity Trustees.

The Australian Securities and Investments Commission froze the assets of First Guardian last February after blocking investment in Shield a year earlier. It is taking a range of actions targeting those involved in promoting or managing the schemes but all this will take years to resolve.

So Netwealth wants Mulino to pre-empt legal findings by using an existing legislative provision to provide financial assistance for losses by an APRA-regulated superannuation fund due to fraudulent conduct. That money would be returned to affected individuals immediately.

Those left out would be those who have invested about $100 million directly through self-managed super funds because only those investing in APRA-regulated funds are covered under Part 23 of the Superannuation Industry Supervision Act.

The minister can approve financial assistance if he is satisfied that there's a substantial reduction in a fund due to fraudulent conduct and difficulties in paying benefits and if he deems it "in the public interest". Until now, Mulino has instead urged devastated consumers facing losses to urgently register their cases with the Australian Financial Complaints Authority.

Assuming they are eventually unable to recover money from their financial advisers or licensees, claimants could be eligible for payouts from the Compensation Scheme of Last Resort. This scheme, paid for by a levy on financial advisers, began operating in 2024 but can only pay up to $150,000 to individuals with an overall payout limit of $20 million a year. As well as the protracted delays for claimants, many have lost far more than $150,000 while total losses from First Guardian are clearly much greater than the $20 million a year limit.

Mulino was already required to review the operations of the scheme but financial advisers would be incensed at paying higher levies. They have been warning that increases in the levy due to a blowout in claims would only accelerate the move out of the industry, making advice more difficult and expensive.

In an update to members on Monday, Netwealth said it was too early to give any assurances regarding when or what the outcome of the minister's determination might be. But it's just tried to shove him its own financial hot potato to juggle.

jennifer.hewett@afr.com

Companies index

Trustees push for taxpayer super bailout

Lucas Baird

Taxpayers may be on the hook to bail out thousands of victims who lost their superannuation with the collapse of the allegedly fraudulent First Guardian scheme, potentially costing $480 million. Superannuation trustees Netwealth, Diversa and Equity Trustees have requested or are considering seeking assistance from the federal government to compensate victims under the Superannuation Industry Act.

ASX-listed wealth management firm Netwealth has written to federal Financial Services Minister Daniel Mulino seeking compensation for almost 1100 Netwealth customers who invested $101 million into the defective First Guardian scheme via its wealth platform. Wealth platforms are used by financial planners to facilitate and administer investments on behalf of their clients in managed funds and securities.

Diversa, another platform trustee that hosted First Guardian, said it was preparing a similar application for over $285 million pumped into the scheme through its systems. Equity Trustees is also considering a request over its exposure to First Guardian, estimated at $70 million.

Mulino confirmed he had received the request and that he had sought advice from the Australian Prudential Regulation Authority, which has responsibility for oversight of the banking, insurance and superannuation industries.

"I'll continue to work with Treasury, APRA, and with consumers who have been directly affected to understand the failures that have occurred and to find the most appropriate path to resolution," he said.

"As there are a number of legal proceedings currently under way, it isn't appropriate for me to pre-empt those processes."

Netwealth said it believed that First Guardian and the fund's responsible entity, Falcon Capital, had engaged in "fraudulent conduct", and it had complied with all its legal obligations when it made the scheme available to members.

"We are continuing to work cooperatively with all relevant stakeholders, including the government, the regulators and the liquidators to pursue the best possible financial outcomes for Netwealth members," it said.

If Mulino decides help is warranted, it will come out of an industry-wide levy and consolidated revenue, and he can place conditions on the money that would require Netwealth and potentially other trustees, to repay the government according to the legislation.

Overall, First Guardian siphoned $480 million from 6000 people before collapsing early this year amid claims of fraud and regulatory probes.

Liquidators for Falcon Capital have said the scheme probably faked investment returns and said the Australian Securities and Investments Commission's concerns about its conduct were well-founded.

The consumer restitution body, the Compensation Scheme of Last Resort, has previously warned consumers that its ability to recoup the money from the adviser industry would be limited as managed investment schemes such as First Guardian and Shield fell outside its parameters.

"Given the complexity of events surrounding the First Guardian collapse, the minister's consideration may take some time," Netwealth said about its request for government assistance.

"It is premature to provide assurances regarding timing or outcomes. Any financial assistance granted may only partially compensate members for losses incurred."

Gilbert + Tobin head of superannuation Luke Barrett said there was no certainty that the government would rescue the trustees from paying compensation out of their own pockets.

I'll continue to work with Treasury, APRA, and with consumers.

Daniel Mulino, financial services minister

Barrett said there was an "obvious analogue" with the collapse of Trio Capital in 2009. In that instance, 5400 consumers lost $176 million after two funds controlled by Trio put investor cash into hedge funds in the British Virgin Islands that subsequently collapsed. They were compensated by the government under the same laws from which Netwealth is now seeking assistance. However, in First Guardian's case, Barrett said trustees still needed to show there was enough shortfall in their assets that they could not pay benefits to members, and that government compensation was in the public interest.

Netwealth said that even without government help, it had "the resources to honour any resulting legal or monetary obligations".

ASIC reached an agreement with Macquarie to refund $321 million that its customers lost in the similarly failed Shield Master Fund.

ASIC has also sued Equity Trustees over the Shield failure and is seeking compensation orders from the court.

Shares in Netwealth were steady at $31.72 in Monday trade, and E&P analyst Olivier Coulon said the company could sustain itself through the scandal and maintained his target price of $37.40.

"[Our] valuation of NWL includes a negative value of $120 million to account for the potential that [it] ultimately makes whole investors in the First Guardian Master Fund," Coulon said in a note to clients.

Equity Trustees, which has exposure to both First Guardian and Shield, is considering making a similar request to the government.

Closing bell Taxpayers covering super's losses is hard to cop p31

The Tomago smelter faces an uncertain future with its power supply c

Major Tomago inv off smelter in gloo

Peter Ker and Simon Evans

A major shareholder in the Tomago aluminium smelter north of Sydney has marked down the value of the asset to zero and declared its operations challenging pointing to an increasingly uncertain future for the plant.

Norsk Hydro told investors that it had proved difficult to find affordable renewable energy for the smelter, the single largest user of power in the national electricity market and the employer of 1000 people.

Rio Tinto, the plant's largest shareholder, has been negotiating for a bailout for the plant for months, but has warned any deal must secure a long-term future for the asset, and not allow it to "limp" to another crisis.

The move by Norsk Hydro – which owns 12.4 per cent of Tomago, making it the third-largest shareholder behind Rio and building materials group CSR – comes amid considerable debate over taxpayer support for a string of ailing industrial businesses.

Earlier this month, the Albanese government committed $600 million to keep Glencore's Mount Isa copper smelter running for three years.

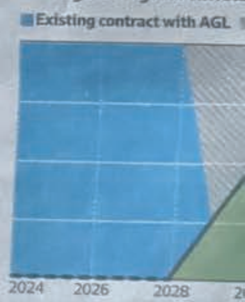
On Monday, Fortescue executive chairman Andrew Forrest said governments should stop propping up ageing assets, even as he became a central figure in a News Corporation-run campaign for support to rebuild the manufacturing sector and creating "a new industrial revolution", a push that has already included advocacy for keeping Tomago open.

"Pushing industries that are struggling or failing, I'm saying, hey, you're underestimating the Australian people," Forrest said on Monday on a tour of the R.M. Williams boot and clothing factory in response to questions about whether the federal government should bail out smelters. "Let's go after those areas where we're best, and not try and prop up old industries," Forrest added. "This romanticism of what might have been, that's your fading memory, it wasn't so great."

Officials across the country have

Not easy bein' gree

Tomago's original timeta



been asked to support smelte Tomago; South Australia h over the Whyalla steelwo installed administrators, w smelters in Tasmania are be ported by government loan plants have complained ab inability to secure long-term and affordable energy sup warned against pushing strate ufacturing to go overseas.

But Norsk Hydro chief e Eivind Kallevik, in an investor gave a gloomy outlook for after 2028, when a power contr AGL Energy expires. Rio has that costs would double to u able levels after 2028 based quotes provided to date.

A slide published by the Nor company as part of its third quar ults showed Tomago ceasing sume electricity after 2029. Rio h previously said it only wants to c its Australian smelters past 2030 can be converted to be powe clean energy sources.

The Oslo-headquartered co wrote down the value of its s Tomago by 41 million Nor kroner ($6.2 million) in the months to September 30. The pany has now impaired its T stake by 157 million kroner o past nine months. Norsk Hydro write-downs reflected its sh