



24 February 2012

Ms E East
Principal Research Officer
Parliamentary Joint Committee on Corporations and Financial Services
Parliament House
Canberra ACT 2600

Dear Ms East

Question on Notice – Trio Capital inquiry – 30 August 2011

On 30 August 2011, I appeared before the Parliamentary Joint Committee on the committee's inquiry into the collapse of Trio Capital and took a question on notice. This question is listed on pages 16-17 of the Hansard transcript.

The following is my response to this question:

I believe this question was raised in the context of what separation between the responsible entity and asset manager is required in the United States. In the United States every US investment company ("fund") is either a trust or a corporation organized under the laws of one of the 50 states. Trusts have a board of trustees while corporations have a board of directors, as required by state law and/or the federal Investment Company Act of 1940 ("ICA"). Most U.S. funds are trusts. Under the ICA, at least 40% of a fund's trustees/directors must be "disinterested," meaning that they should not be affiliated with the fund or the fund's adviser or distributor. The definition of what makes someone an "interested person" of a fund is long and extremely detailed (Section 2(a)(19) of the ICA). The US Securities and Exchange Commission has adopted rules that effectively raise the required percentage of disinterested trustees from at least 40% to at least 75%.

I should point out that SPAA does not necessarily agree with the approach adopted in the United States. A similar system previously existed in Australian for Trustee companies which was cumbersome, imposed additional layers of fees and didn't appear to provide any additional independent monitoring of managed funds. Perhaps better reporting by fund managers about where funds are being invested, with higher degrees of disclosure if funds are being moved offshore, would be a better and more workable solution.

Please contact me on _____ should you require any further information or clarification.

Yours sincerely,

Andrea Slattery
CEO