COMMENTS FOR THE INQUIRY INTO TRIO CAPITAL AND RELATED MATTERS

from

Small Independent Superannuation Funds Association Ltd

- SISFA's comments are limited to the involvement of SMSFs in circumstances such as the Trio Capital collapse.

- We consider that any proposed compensation regime properly recognise the fundamental structural differences between SMSFs and APRA-regulated entities. As the beneficiaries and trustees of SMSFs are one and the same, we believe SMSFs should be treated no differently to other forms of retail investors. APRA-regulated funds have approved, arm's length trustees, meaning that there is an additional degree of separation between the beneficiaries and decisions regarding the underlying fund investments.

- Accordingly, while the incidence of fraud will still have the same outcomes, a beneficiary of an APRA-regulated fund has no control over the investment decisions of the trustee (other than perhaps in the case of a small APRA fund). This position is to be contrasted with SMSFs, where the beneficiaries and trustees have direct input into and control over the investment decisions.

- While the trustee of a SMSF may rely on advice from AFS Licensees and their representatives, a distinction needs to be drawn between the advice process (and poor advice) and the ultimate investments made. In a similar vein, if any exposure of SMSFs to the Trio Capital collapse (or other collapses of that nature) was as a result of mis-selling SMSFs themselves, then this must also be recognised as a separate issue.

- We do not consider it appropriate for SMSFs to have access to a levy-based financial assistance scheme akin to that applying to APRA-regulated funds. SMSFs as retail investors have recourse to disputes resolution and compensation mechanisms available under the Corporations Act.

- A levy-based scheme works for APRA-regulated funds as it is an indirect charge on beneficiaries. For SMSFs however, a levy would effectively be a direct expense and one that we are sure the vast majority of individual SMSFs not affected by fraud would object to paying to protect a very small number (in relative terms) of victims.

- We understand that one proposal submitted for consideration involves all managed investment schemes having to pay some form of fidelity levy into a fund to be used for last resort compensation for losses arising from fraud. SMSFs as retail investors would presumably have access to such a scheme. We believe this needs to be considered carefully and in light of the FoFA reforms and also having due regard to the moral hazard risk, which is obviously higher where retail investors (including SMSFs) have more direct control over and responsibility for their investment decisions.

Thank you for the opportunity to contribute to the inquiry.

Yours sincerely

Michael Lorimer

Director and Chair, SISFA

Small Independent Superannuation Funds Association Ltd ACN 088 181 980
MGD Wealth Ltd | 175 Melbourne Street, South Brisbane QLD 4101
t +61 7 3391 5055 | f +61 7 3391 1711 | e ml@mgdwealth.com.au | w www.mgdwealth.com.au | p PO Box 7074, East Brisbane QLD 4169