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22 August 2011

Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

**By email:** [corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au)

Dear Sir/Madam

### **Inquiry into the collapse of Trio Capital**

CPA Australia represents the diverse interests of more than 132,000 members in over 110 countries. Our vision is to make CPA Australia the global accountancy designation for strategic business leaders. We welcome the opportunity to provide input to the inquiry

This submission has been prepared with the assistance of CPA Australia's Retirement Savings Centre of Excellence (CoE). The CoE is a member based committee that includes leading experts from the superannuation industry. Our superannuation experts work across major components of the superannuation industry ranging from some of the largest industry, corporate and retail funds through to self-managed superannuation funds.

CPA Australia sympathises with the investors impacted by the collapse of Trio Capital. We are not in a position to provide particular comment in relation to the investment structures, points of failure or the actions of the regulators in this case. However, we would make the point that fraud is a criminal activity and unfortunately, and despite the best laws, regulators and intentions being in place, criminals will find ways to circumvent the system to commit fraud.

In relation to compensation for investors' losses, we would like to highlight the distinction between members of APRA regulated funds and individual, or direct, investors. There has been considerable discussion in the public arena that members of APRA regulated funds were compensated for losses relating to the collapse of Trio Capital while members of self-managed superannuation funds missed out. However, it must be highlighted that compensation was only provided to members of the four Trio Capital / Astarra funds, not members of APRA funds in general.

SMSFs should be considered the same as other direct investors. They have the same control, many of the same choices and can take on the same risk. The only difference is SMSFs operate in a concessional taxed environment, albeit with some legislated investment restrictions. The question is not whether SMSF members should be compensated the same as members of APRA regulated funds but whether direct investors, including SMSF members, should be compensated for losses in situations such as this.

A compensation scheme of last resort has its merits. However, investors have a number of other avenues to pursue compensation, such as through the courts, public indemnity insurance and in the case of losses resulting from advice from a licensed financial adviser, through the Financial Ombudsmen Service. A universal scheme should only be available once all other avenues have been exhausted.

The difficulty with a universal compensation scheme for direct investors is who pays for it and should all investors be levied at the same rate irrespective of the risk they take on? If a levy is charged on all investment products, inequitable situations may arise where investors in conservative or low risk investment products or major institutions are funding a scheme they may never use and that is more likely to be used by investors in 'riskier' investment products. Conversely, if a levy was limited to particular products the cost may well be prohibitive for individual investors.

Depending on the make-up of a universal compensation scheme, the potential 'moral hazard' would also need to be considered. Investors may be encouraged to make riskier investment decisions and product providers market more high risk products if they believed they may be compensated if these investments failed.

We understand these issues are currently being considered as part of Richard St. John's review of compensation arrangements for consumers of financial services for the Federal Government. We suggest the Committee consider this review in relation to these issues.

If you have any questions regarding the comments, please do not hesitate to contact me on 02 6267 8552.

Yours faithfully

A handwritten signature in black ink, appearing to read "Michael Davison". The signature is fluid and cursive, written in a professional style.

**Michael Davison**  
**Senior Policy Adviser - Superannuation**

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