

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

## **- Interim report -**

1.1 On 23 June 2011, the Parliamentary Joint Committee on Corporations and Financial Services resolved to inquire, and report by 24 November 2011, into the collapse of Trio Capital and any other related matters.

1.2 On 24 November 2011, the committee extended the reporting date to 9 May 2012 and resolved to produce this interim report laying out some of the facts of the collapse and identifying issues for further investigation.

1.3 The committee is aware that their report into the collapse of Trio Capital is highly anticipated by a wide range of stakeholders; however, the committee requires the extension in order to properly make further inquiries into the issues outlined on page 3 of this report.

1.4 To date, the committee has received 72 submissions and held 6 public hearings including a community forum in Thirroul on 6 September 2011.

1.5 The committee thanks those organisations and individuals that have made written submissions, and those who have assisted the committee by presenting evidence at public hearings or at the community forum.

1.6 The committee has been particularly interested in the implications of the Trio Capital collapse for investors, especially investors in self-managed superannuation funds. The committee recognises the trauma experienced by investors affected by the Trio Capital collapse, and is grateful for the assistance that investors provided through sharing their stories and experiences with the committee.

### **The Trio funds**

1.7 This section provides a short statement relating to the Trio funds outlining the committee's position to date.

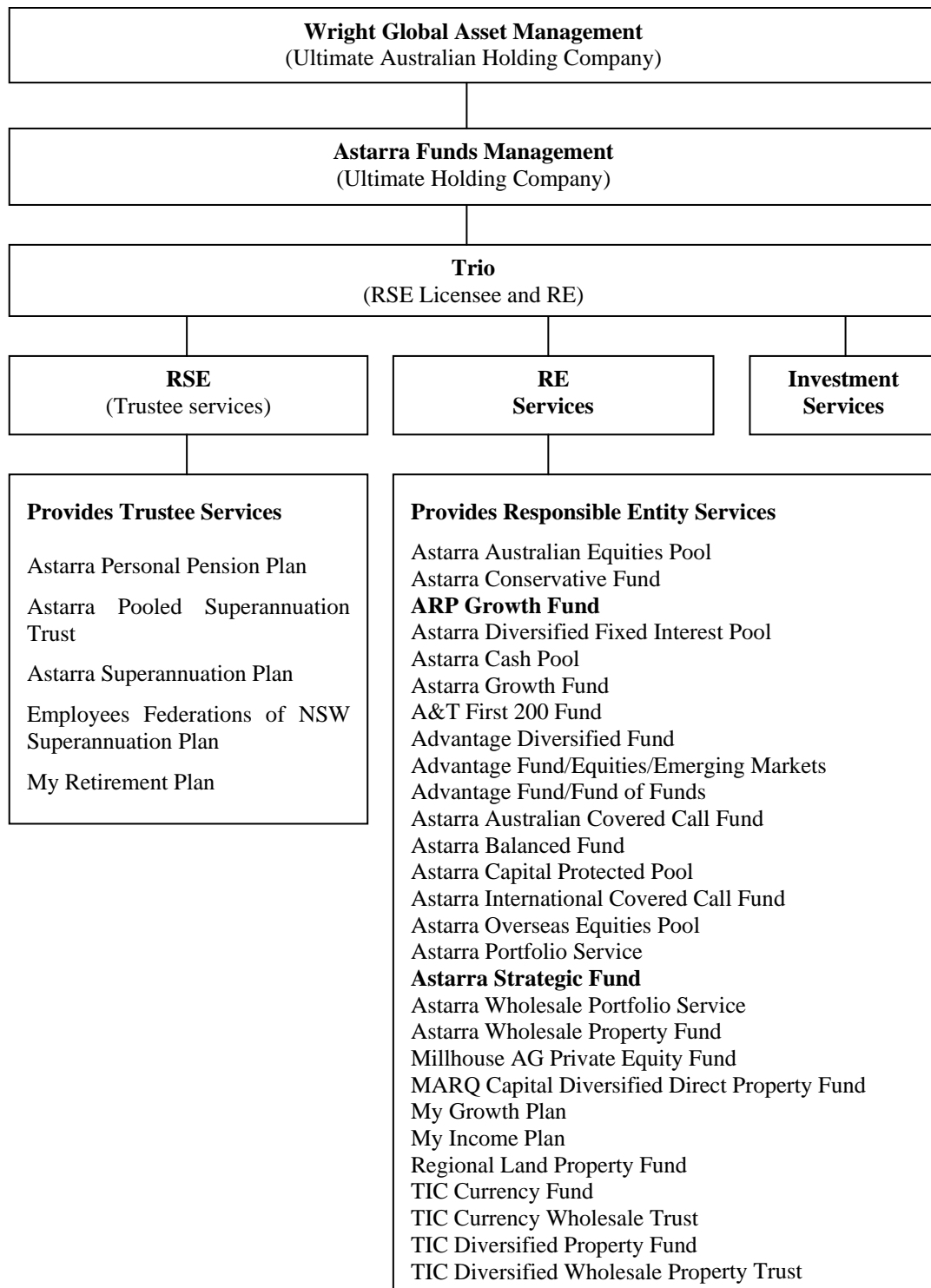
1.8 The structure of the specific products involved in the Trio collapse is complex; the story behind its collapse made more so by the 'large level of cross investment between superannuation funds and the Schemes where Trio was the common Trustee.'<sup>1</sup>

1.9 PPB Advisory, as official administrators, provided the following structure of the Trio Group and the funds it administered.<sup>2</sup>

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1 *Report to creditors pursuant to section 439A of the Corporations Act 2001, Trio Capital Limited*, 8 April 2010, PPB Advisory, p. 12.

2 *Report to creditors pursuant to section 439A of the Corporations Act 2001, Trio Capital Limited*, 8 April 2010, PPB Advisory, p. 11.



1.10 The collapse of Trio centred on fraudulent behaviour mainly in relation to two funds, the Astarra Strategic Fund and the ARP Growth Fund both registered managed investment schemes.

## Issues raised so far

1.11 The committee are currently considering a range of issues in relation to the collapse of Trio Capital. These include:

- The extent to which the Australian Securities and Investments Commission and the Australian Prudential Regulatory Authority have successfully dealt with the issue of the ARP Growth Fund and the conclusion that it was the victim of market failure rather than fraud;
- The capacity of the financial services regulatory regime to deal with international fraud;
- The extent to which gatekeepers including auditors, custodians, research houses and financial planners have failed. This is particularly in light of comments made by Mr Greg Medcraft, Chairman, ASIC, that 'This particular crisis—what happened in Trio and ARP—is a good example of what I think is gatekeeper failure. It does start with the responsible entities: the directors and the executors of the responsible entities, the investment manager, the compliance committee, the compliance plan audit, the research houses, the custodians, the advisers.'<sup>3</sup>;
- Specifically, the role of auditors and auditing standards;
- Compensation arrangements for investors affected by fraud or misconduct under the *Corporations Act 2001*, which exists for consumers who receive a financial product or service from Australian Financial Services Licensees, and under the *Superannuation Industry (Supervision) Act 1993*, which operates for superannuation funds regulated by the Australian Prudential Regulation Authority;
- The regulation of managed investment schemes;
- The crucial role played by Responsible Entities;
- The interplay of any recommendations from this inquiry with actions already underway in relation to Future of Financial Advice reforms and proposals for reshaping the compensation system coming out of the Review of Compensation Arrangements for Consumers of Financial Services being undertaken by the Treasury; and
- The need to continuously improve levels of financial literacy.

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3 Mr Greg Medcraft, Chair, ASIC, *Committee Hansard*, 6 September 2011, p. 1.

## **Final Report**

The committee will consider the above issues in forming recommendations as part of the final report. The final report will be tabled on 9 May 2012.

**Mr Bernie Ripoll**

**Chair**