Duties of the Committee

Section 243 of the *Australian Securities and Investments Commission Act 2001* sets out the Parliamentary Committee's duties as follows:

- (a) to inquire into, and report to both Houses on:
- (i) activities of ASIC or the Panel, or matters connected with such activities, to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed; or
- (ii) the operation of the corporations legislation (other than the excluded provisions), or of any other law of the Commonwealth, of a State or Territory or of a foreign country that appears to the Parliamentary Committee to affect significantly the operation of the corporations legislation (other than the excluded provisions); and
- (b) to examine each annual report that is prepared by a body established by this Act and of which a copy has been laid before a House, and to report to both Houses on matters that appear in, or arise out of, that annual report and to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed; and
- (c) to inquire into any question in connection with its duties that is referred to it by a House, and to report to that House on that question.

Table of Contents

Members of the Committeeiii		
Duties of the Committee	V	
Figures and Tables	xiii	
Abbreviations and key definitions	XV	
Executive summary	xvii	
The issue of compensation	xviii	
The Trio Capital fraud	xix	
Missed signals	xix	
ARP Growth Fund	xx	
The need for further investigation	xxi	
Financial advisers	xxii	
Auditors, custodians and research houses	xxii	
Better disclosure by managed investment schemes	xxiv	
Self managed superannuation funds	xxiv	
Protecting Australians' superannuation savings	xxv	
List of Recommendations	xxvii	
Chapter 1	1	
Introduction	1	
Terms of reference	1	
Conduct of the inquiry	1	
Acknowledgement	3	
Privilege issue	3	
Scope of the inquiry	4	

	Cooper Superannuation Review	4
	Other related inquiries	5
	The role of APRA in relation to superannuation	7
	Registrable Superannuation Entities	7
	The role of the responsible entity	9
	Dual regulated entities	11
	Self managed superannuation funds	12
Ch	apter 2	15
T	The structure, operation and collapse of Trio Capital	15
	Introduction	15
	The structure and operation of Trio Capital	15
	Mr Shawn Richard, Mr Jack Flader and the Trio fraud	27
	The role of financial advisers	29
	The collapse of Trio Capital and the regulatory response	33
	A chronology of key events	37
Cha	apter 3	43
The	e impact on Trio Capital investors and the issue of compensation	43
	The impact on investors.	43
	The emotional impact	45
	Compensation arrangements for investors affected by fraud or misconduct	47
	The government's compensation of Trio investors	50
	A last resort compensation scheme	55
	The committee's view on SMSF investor compensation	58
Ch	apter 4	65
T	The view of the regulators on the collapse of Trio Capital	65
	Introduction	65
	The key regulatory and oversight institutions	65
	The regulators' view of the Trio Capital collapse	69

]	Is some fraud inevitable?	86
Chap	pter 5	89
Th	e views of the gatekeepers on the collapse of Trio Capital	89
•	WHK's view	89
]	KPMG's view	92
F	The Auditing and Assurance Standards Board's view	98
-	The Companies Auditors and Liquidators Disciplinary Board	98
-	The Trust Company	99
-	The views of the financial advisers and planners	100
-	The custodians' view	105
-	The view of research houses	108
(Concluding comment	112
Char	oter 6	113
	stors' criticisms of the regulatory framework and the role lators and gatekeepers	
]	Investors' criticism of SMSF framework	113
]	Investors' criticism of the regulators	116
]	Investors' criticism of the auditors	118
]	Investors' criticism of financial advisers	120
Chap	pter 7	123
The '	'expectation gaps' and some possible remedies	123
]	Introduction	123
]	Informing and protecting SMSFs	124
(SMSFs and the role of financial advisers and planners	126
1	Australian Financial Services Licensing arrangements	127
-	The role of auditors	129
-	The role of custodians	131
-	The role of research houses	133

Better disclosure by managed investment schemes	134
Concluding comment	136
Chapter 8	139
The need for further investigations to recover funds and wrongdoing	_
Introduction	139
Can ARP Growth Fund monies be recovered?	139
The investigations of Australian crime-fighting agencies into Trio	142
Is Australian superannuation an easy target?	146
Committee view	147
Chapter 9	151
Concluding comments	151
Compensation issues	151
Pursuing the funds and the criminals	152
The regulators	153
The responsible entity and the gatekeepers	153
Draft legislation to improve transparency of superannuation assets	155
A final note	156
Appendix 1	157
Submissions	157
Answers to Questions on Notice	161
Additional information received	161
Appendix 2	163
Public Hearings	163
30 August 2011, Sydney	163
6 September 2011, Thirroul, NSW	164
6 September 2011, Sydney	164

]	Responses from Mr Shawn Richard	167
Appendix 316		167
	4 April 2012, Sydney	166
	4 November 2011, Canberra	165
	23 September 2011, Sydney	165
	22 September 2011, Canberra	164

Figures and Tables

Figure 2.1: Astarra Group Structure	17
Figure 2.2: Interaction of Investments and Founding Directors of Trio	21
Figure 2.3: Investment structure of PPARP	22
Figure 2.4: Fund flow arrangements of the DPA structure of ASF	25
Table 2.1: Enforceable undertakings	36
Table 2.2: Trio timeline	38

