

List of Recommendations

Recommendation 1

3.77 The committee acknowledges the shortcomings, identified by Mr Richard St. John, of a statutory compensation scheme for consumers of financial services, and a scheme of financial assistance for investors in managed investment schemes along the lines of Part 23 of the *Superannuation Industry (Supervision) Act 1993*. However, the committee recommends that further efforts be made to investigate avenues to protect investors in the case of theft and fraud by a managed investment scheme.

The committee recommends that the government assist those who invested in the Professional Pensions Pooled Superannuation Trust (PPPST), and were induced to move their funds to the ARP Growth Fund.

Recommendation 2

5.80 The committee recommends that consideration be given to improving the active detection of investment fraud through systems that can identify 'outlying' patterns in investment performance. To this end, the committee encourages partnerships between the regulators and experts in the private sector.

Recommendation 3

7.6 The committee recommends that the Australian Taxation Office include a clear, understandable, large print warning on its website that self managed superannuation fund trustees are not covered in the event of theft and fraud. This warning must be effectively communicated to all existing Self Managed Superannuation Fund trustees through the guidance material of the Australian Securities and Investments Commission.

Recommendation 4

7.8 The committee recommends that the guidance material provided by the Australian Taxation Office for Self Managed Superannuation Fund investors clearly state the difference between the protections and compensation arrangements for investors in funds regulated by Australian Prudential Regulation Authority as distinct from the limited protections available to Self Managed Superannuation Fund investors.

Recommendation 5

7.17 The committee acknowledges the Future of Financial Advice reforms, particularly the provisions addressing conflicted remuneration. Nonetheless, it recommends that ASIC conduct a specific and detailed investigation of both planners' and accountants' advice to SMSF investors in Trio Capital. This investigation must examine what information was provided to these investors regarding their duties and responsibilities, and whether they were informed—either verbally or in writing—that they are not entitled to compensation in the event of theft and fraud.

Recommendation 6

7.26 The committee recommends that the government consider whether current processes are adequate when there is a change of ownership or control of a company which holds an Australian Financial Services Licence, or whether there is a need for more detailed scrutiny of the new owner.

Recommendation 7

7.35 The committee recommends that the government investigate options to improve the oversight and operation of compliance plans and compliance committees. In particular, this investigation should focus on the need for:

- more detail to be included in compliance plans;
- qualitative standards by which compliance plan auditors must conduct their audits;
- liability for the responsible entity and its directors for any contravention of the compliance plan, rather than only for material contraventions, as is currently the case;
- legislative requirements as to experience, competence or qualifications for compliance committee members;
- regulatory or member oversight of the appointment of compliance committee members;
- an approval process for compliance plan auditors so that ASIC has the powers to remove or impose conditions on such approval; and
- governance arrangements to be clearly stated in relation to the proceedings of the compliance committee.

Recommendation 8

7.44 The committee recommends that as part of its review of regulatory arrangements relating to custodians, ASIC should consider changing the name 'custodian' to a term that better reflects the current role of a custodian. This new term—reflecting the limited role of custodians—must be used in Product Disclosure Statements.

Recommendation 9

7.56 The committee recommends that the government release a consultation paper to investigate the best mechanism for a responsible entity of a registered managed investment scheme to disclose its scheme assets at the asset level. The objective must be to enable scheme members to legally require specific information on the portfolio holdings of the registered managed investment schemes in which they have invested.

Recommendation 10

8.13 The committee recommends that the Australian Securities and Investments Commission provide all necessary funding for PPB Advisory to pursue its investigation to a full conclusion, including where necessary conducting examinations on oath of figures such as Mr Jack Flader and others it considers necessary as part of the investigation. The committee recommends that ASIC fund the phase 2 investigation by PPB Advisory as a matter of urgency.

Recommendation 11

8.26 The committee recommends that the Australian Federal Police, in cooperation with the Australian Securities and Investments Commission and the Australian Prudential Regulation Authority, pursue criminal investigations into—and, where applicable, criminal sanctions against—the key figures responsible for defrauding investors in Trio as a matter of high priority.

Recommendation 12

8.36 The committee recommends that the government investigate the options for a scheme to recover assets from those found to be personally involved in fraud and theft, with the proceeds to go to those found to have been defrauded.

Recommendation 13

8.37 The committee recommends that the Australian Prudential Regulation Authority conduct an internal assessment of the adequacy and timeliness of its checks to monitor the ownership of superannuation vehicles. This process must review why key 'trigger points' in events that led to the collapse of Trio Capital were not identified.

Recommendation 14

8.38 The committee recommends that the Australian Federal Police consider the options to create an organisational focus on the matters pertaining to superannuation fraud. This should occur in close consultation with the Australian Crime Commission given its work in coordinating Task Force Galilee.

