

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

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20-21 November 2013

Question: SBT 912-913

Topic: Update on Trio investigation

Written: 28 November 2013

Senator WONG asked:

912. Can ASIC please provide the committee with a detailed update on enforcement actions taken in the case of the collapse of Trio Capital?
913. Has further advice been sought from the Government on options to provide further financial or other assistance to those who have lost savings with this collapse? If so, when?

Answer:

912. On 29 October 2013, ASIC issued an update on its Trio investigation, including the outcomes of our enforcement actions. This update is publicly available on ASIC's website, www.asic.gov.au.

ASIC's enforcement outcomes include:

- Shawn Richard, the CEO of the former investment manager of the Astarra Strategic Fund (ASF) being sentenced of 3 years and 9 months imprisonment with a minimum term of 2 years and 6 months. ASF was one of the managed investment schemes operated by Trio. Mr Richard pleaded guilty to two offences involving dishonest conduct in carrying on a financial services business. Richard also admitted conduct that constituted making a false statement about a financial product.
- Tony Maher (formerly known as Paul Gresham) the sole director of the former investment manager of the ARP Growth Fund (ARP), pleading guilty to 20 charges including making false or misleading statements to obtaining a financial advantage. ARP was a managed investment scheme operated by Trio. The sentencing hearing for Mr Maher is set down for the 21 February 2014 in the District Court of New South Wales.
- The permanent banning of Eugene Liu, ASF's chief investment strategist, from providing financial services. Mr Liu is appealing his ban in the Administrative Appeals Tribunal.
- Enforceable Undertakings (EU) with five former Trio directors where they agreed not to be involved in the financial services industry or manage a company for between two and 15 years. The former directors are Natasha Beck, Keith Finkelde, David O'Bryen, David Andrews and Rex Phillipott.
- An EU with planning firm, Kilara Financial Solutions to address compliance issues.
- An EU with Mr Maher to never provide financial services or manage a company.
- Suspending the licence of financial planners Seagrims, with this licence being cancelled at the company's request on 19 September 2011.

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- Banning Seagrims directors Peter Seagrim and Anne-Marie Seagrim for 3 years, with the Administrative Appeals Tribunal subsequently cutting the ban to 6 months.
- An EU with the former ASF auditor of ASF, Timothy Frazer providing that he would not act as a registered company auditor for 3 years.

ASIC is also finalising its investigation of Mr Jack Flader Jr, who is allegedly the ultimate controller of the Trio group. ASIC, the Australian Federal Police and our overseas regulatory counterparts have sought to obtain extra evidence to establish that Mr Flader breached Australian law. However, despite this further work, there is insufficient evidence to prove Mr Flader breached Australian law.

913. No advice has been sought from the current or previous government about options for further financial assistance to investors as this is not a matter within ASIC's area of responsibility.

ASIC while undertaking its investigations considered options for recovering or seeking compensation for investors in the ASF and ARP. No commercially viable compensation claims were identified.

The liquidators of Trio have also investigated possible avenues to recover funds for creditors including investors in funds operated by Trio. The liquidators are in the process of preparing final reports to creditors, which will provide investors in ASF and ARP with the liquidators' findings about the nature of the investments of these funds and efforts to recover those investments or obtain compensation.