

The following is a summary of the correspondence between VOFF and initially the Treasury Department but also the Ombudsman and the Information Commissioner.

01-Feb12,2017-FOI 456 to Treasury

The Official Committee Hansard, Senator Boyce said,  
"I suppose my concern as a legislator would be if there are people who have committed wrong in the view of society and yet are outside the reach of any laws or regulations of the country."

APRA's Mr Jones replied, "It would certainly be our concern as well, and it is something that we would raise directly with Treasury via our normal processes. Any time we believe that there are gaps in legislation, we automatically revert back to Treasury to discuss these sorts of matters."

Source: Parliamentary Joint Committee On Corporations And Financial Services - Collapse of Trio Capital - 30 August 2011, page 41.

ASIC's limitations in the Trio investigation were acknowledged in 2013 during a Parliamentary Joint Committee Statutory Oversight. The committee noted, "Fraudulent activity where money is siphoned to other jurisdictions is an international problem. The committee is of the view that Mr Medcraft's new position as head of the international corporate regulator provides an opportunity to negotiate measures that would close the loopholes in international fraud detection and response."

Source: Parliamentary Joint Committee on Corporations and Financial Services, Statutory Oversight of the Australian Securities and Investments Commission, Number 2, May 2013 page 47

Treasury found "The Government considered the action taken by the financial regulators, ASIC and APRA, and is satisfied that in relation to the collapse of Trio, both regulators carried out their roles and responsibilities appropriately, in accordance with the law and the regulatory framework."

Both regulators may have carried out their roles and responsibilities appropriately but they also faced international jurisdiction limitations and imitations to carry out 'fit and proper person' test. As a consequence the people allowed into the Australian financial system set up a fraudulent scheme that siphoned \$194.5m in retirement savings. Both regulators may have carried out their roles and responsibilities appropriately but the overall effect was a systemic failure.

Please provide document under the Freedom of Information Act 1983 of what ASIC and APRA contribute to safeguard and protect superannuation in the Australian financial market and the report by APRA alerting Treasury to the gaps in legislation that prevented the questioning of overseas Trio entities.

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02-Feb28,2017 from Treasury acknowledge receipt of your FOI request.

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03-March10,2017 from Treasury 2088 charges \$14.50.

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04-March 14th 2017 to Treasury Sent cheque by post.

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05-March21,2017 to Treasury cheque posted March 14th 2017.

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March21,2017 from Treasury - cheque received and currently being processed.

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07-Mar23,2017 from Treasury received cheque.

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08-June16,2017 to OAIC cc Treasury & Ombudsman. Three months have passed, VOFF refuse to prompt Treasury every step of the way. VOFF are inconvenienced and distressed with Treasury and money. Treasury did not follow the FOI process. We want full repayment of our money returned including the documents (as offered for \$14.50) at no-charge.

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09-June16,2017 from Treasury Decision, weighed up factors for and against disclosure and the material could prejudice advisory process carried out within government. It is important that such functions being carried out in a candid and confidential manner. The disclosure of such frank, forthright and confidential advice would, in my view, make the provision of such advice to ministers in the future considerably more difficult. It would, therefore, not be in the interests of good government and. therefore, contrary to the public interest.

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10-June16,2017 VOFF want a refund.

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11-June21,2017 from OAIC referred your correspondence to the OAIC's FOI team for consideration and assessment.

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12-July7,2017 phone call from Carl English - Said that the letter he has shows that the email was sent. Asked if we could double check.

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13-July7,2017 to OAIC - VOFF thoroughly checked system and did not receive the document from Treasury called "FOI 2088 - Decision - Final.pdf"

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July7,2017 from Carl English attached a copy of the decision for you to consider.

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15-July28,2017 from OAIC The OAIC is currently considering your IC review application and conducting inquiries with the Department of the Treasury.

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16-July28,2017 to OAIC The ISP confirmed that the sender would be informed if a letter failed to reach its destination.

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17-Aug11,2017 from Treasury The department intends to refund the charge of \$14.50.

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18-Aug11,2017 to Treasury VOFF sent Bank Account details.

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19-Dec8,2017 from OAIC Treasury decided that the document you requested was exempt under s 47C of the FOI Act

Submissions in support of the application of the section 47C exemption

In relation to point (g), section 47C of the Act provides that a document is conditionally exempt if its disclosure would disclose deliberative material in the nature of opinions, advice or recommendations obtained, prepared or recorded in the course of, or for the purposes of, the deliberative processes of an agency or a Minister.

The document in question contains the opinions, advice and recommendations from APRA to the department regarding possible legislative gaps relevant to the factual circumstances of the collapse of Trio Capital Limited (Trio). This material is deliberative material for the purposes of section 47C.

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20-Jan9,2018 from OAIC Discretion not to conduct an IC review.

Section 54W(a)(ii) of the FOI Act provides the Information Commissioner with a discretion not to undertake a review, or not to continue to undertake a review, where the applicant has failed to cooperate in progressing the review application, or the review, without reasonable excuse.

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21-Jan22,2018 to OAIC Treasurer is yet to verify the repayment of \$14.50 by Treasury around December 8th 2017. VOFF will inform the OAIC as soon as this detail is made clear.

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22-Jan23,2018 from OAIC On the basis of your response I will not be recommending that the review be finalised under s 54Wa(ii) of the Freedom of Information Act 1982 (Cth) at this stage.

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23-Jan28,2018 to OAIC, VOFF confirm that the \$14.50 from the Treasury Department was credited to VOFF's bank account on 7 Sep 2017.

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24-Jan29,2018 from OAIC thanks for email.

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25-April17,2018 from OAIC Please note that this matter has been reallocated to me as case officer.

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26-April19,2018 from OAIC long email dated April 19, 2018 from OAIC and attached 4 page .pdf letter from Treasury dated 8 March 2018

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27-April24,2018 to OAIC, do not intent to pursue.

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28-April24,2018 from OAIC acknowledged VOFF article on moneymangement web site.

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29-April24,2018 from OAIC-2 - I would be grateful if you could confirm in writing whether you wish to withdraw your application for IC review

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30-April30,2018 letter to OAIC - please encourage Treasury to release the information.

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31-May1,2018 from OAIC acknowledge receipt of your letter of 27 April 2018 confirming that you wish to continue with this IC review application.

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32-May7,2018 to OAIC - investors have the right to know.

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33-May10,2018 from OAIC I confirm receipt of your letter of 7 May 2018 (attached) and have noted your submissions on the case file.

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34-May10,2018 to OAIC APRA's position and perceived conflicts of interest with APRA-regulated funds makes it more important that the information is known to investors.

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35-May10,2018 from OAIC automated acknowledgement.

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36-June19,2018 from OAIC. This matter is now progressing to a decision by the Information Commissioner. A copy of the IC review decision will be provided to you once the decision has been finalised, and the decision will also be published on the OAIC's website and Austlii.

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37-Aug29,2018 from OAIC. Refused release of document.