

Open Letter to Helen Rowell Deputy Chair, Australian Prudential Regulation Authority (APRA)

Subject: Demand for Accountability and Justice for Victims of Financial Fraud
29 May 2023

Dear Helen Rowell,

The Victims of Financial Fraud group is deeply concerned and disappointed to see your recent speech wrongly calling the Trio Capital fraud a “collapse” where *“poor governance and risk management were front and centre as contributing factors”*. Suggesting, *“inadequate investment governance processes; failure to adequately manage conflicts of interest from dealings with related parties; and failure to have adequate controls to mitigate fraud-related investment risk. And again, the board paid a heavy price for its failings, with 13 former directors banned from the industry.”*¹

The Astarra Strategic Fund (ASF) [under Trio] was licensed by APRA and was subject to ongoing supervision to ensure it met APRA’s prudential requirements. APRA supervisors examined Trio’s data, records and reports and supervised meetings with Trio’s directors. The Australian Securities and Investments Commission approved an Australian Financial Services Licence (AFSL), its Product Disclosure Statement prepared by the law firm Baker McKenzie. There was a 4-year history of favorable reports about ASF by respected Morningstar and VanMac Research Houses, NAB and ANZ were custodians, and KPMG and WHK were its auditors. The entire system endorsed that the Trio scheme complied with Corporations Law.

Using the word “collapse” in your speech fails to acknowledge or describe the massive overall **failure** by the entire system to identify an insidious **fraud**. ASIC’s and APRA’s failure to communicate concerns they had about Trio with each other was identified by the Parliamentary Joint Committee inquiry into the Trio fraud. By 2006 APRA had found the Trio directors to be a “bunch of incompetents” but did not inform ASIC or the market. When APRA requested Trio to verify assets and Trio stalled for months, APRA again did nothing. As a direct consequence of no action by both regulators, the innocent victims of the Trio fraud were denied the justice they deserve. This denial of justice perpetuates a cycle of impunity and sets a dangerous precedent where criminals can continue to exploit unsuspecting individuals with little fear of repercussions.

Enforceable Undertakings banning 13 former Trio directors made ASIC and APRA look good, but due to the lack of transparency, the public was robbed of an opportunity to gain a better understanding of the fraud. Consumers and financial advice undeservingly copped the blame while those that designed the harmful product freely walked away with the proceeds of crime. VOFF’s 2022 submission to the Financial Regulator Assessment Authority alleges APRA disadvantaged consumers when it helped write legislation to protect only one sector of the financial market.²

¹ APRA Deputy Chair Helen Rowell 17 May 2023 speech
<https://www.apra.gov.au/news-and-publications/apra-deputy-chair-helen-rowell-speech-to-governance-and-risk-management-forum>

² VOFF submission concerning Financial Regulator Assessment Authority 5.12.2022 (Treasury didn’t published submissions)
<http://www.mysuperrights.info/resources/VOFF%20Sub%20to%20FRAA%205.12.2022.pdf>

As citizens, we placed our trust in APRA to act in the best interests of the public, particularly in matters of law enforcement and justice. However, APRA's dissemination of false and misleading information has effectively denied victims the opportunity to seek restitution and hold the perpetrators accountable for their actions. VOFF firmly believes that it is the responsibility of any government organization to rectify its mistakes and make amends for the harm caused. Therefore, VOFF urge APRA to take immediate action to address the following:

1. Publicly acknowledge and apologize for the dissemination of misleading information that has caused harm to innocent victims of financial fraud.
2. Initiate an independent and transparent investigation into the circumstances that led to the spread of false information, ensuring accountability for those responsible.
3. Establish a mechanism for reviewing the cases of individuals affected by financial fraud, ensuring that they receive the justice they deserve (according to legal precedent and not APRA's opinion). This may involve reopening investigations, providing financial assistance, or any other necessary measures to help victims recover their losses.
4. Implement comprehensive reforms within APRA to prevent similar incidents from occurring in the future. This should include stricter oversight, improved communication protocols, and enhanced transparency to rebuild public trust.
5. Demonstrate that APRA respects accuracy and justice by publicly releasing the minutes of all the meetings APRA held with Trio directors including correspondence between APRA and Trio concerning APRA's request for Trio to verify assets.

It is imperative that APRA takes swift action to rectify this grave injustice. Failure to address these concerns adequately will only deepen the sense of disillusionment and erode the trust. VOFF deserves justice, and it is within APRA's power to restore their faith in the system.

VOFF hopes that you will treat this matter with the seriousness it deserves and take immediate action to rectify the injustice inflicted upon the victims of financial fraud. By acknowledging mistakes helps prevent such missteps from occurring in the future.

Thank you for your attention to this matter. VOFF awaits your response.

John Telford
Secretary
Victims of Financial Fraud
Email: johntelford2021@gmail.com