Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

John Telford
Secretary
Victims of Financial Fraud (VOFF Inc)
28 February 2019

Dear Committee Secretary

In September 2009, consumers with money in Trio Capital Limited (Trio) discovered that Trio was a fraudulent scheme. The consumers also discovered they had no legal rights through the justice system.

The government has its eye on the $2.8 trillion superannuation honey pot as a means for large-scale, long-term investment. The government also has suggested the acceptance of public superannuation into the government's Future Fund. The government mandates, compels and encourages Australians into superannuation. The government designed a compensation safety net for the Australian Prudential Regulation Authority (APRA) regulated superannuation funds under Part 23 of the Superannuation Industry (Supervision) Act 1993 (SIS Act).

Kenneth Hayne's Banking Royal Commission found the policing regulator was too cosy, too timid, too slow and reluctant to act against banking misconduct. This raises the question about the regulator's handling of the Trio fraud. The regulators failed consumers before, after and during the Trio fraud debacle. After the fraud consumers were offered incorrect advice on how they can seek redress. In 2011, the Australian Securities and Investments Commission (ASIC) and the Superannuation Minister Mr Shorten advised the Trio consumers about how to seek remedy. ASIC said,

> *Those who are not entitled to compensation should consider contacting the Financial Ombudsman ….*
> *People who are not entitled to compensation may also wish to seek independent legal advice as to what options are available.*
> *Those who took financial advice and are not entitled to compensation can consider taking their own action against the financial advisor involved….*
> *Some of the financial advisory firms that recommended the Astarra Strategic Fund to their clients are now in liquidation. Their clients may wish to seek legal advice about the options available to them. The Corporations Act requires licensees to have adequate compensation arrangements in place. This generally includes adequate professional indemnity insurance.*[1]

Mr Shorten said 'Those investors (uncompensated) could seek remedies through the courts or the financial ombudsman'.[2]

ASIC and Mr Shorten were wrong. The financial advisor's Professional Indemnity insurance (highlighted by government)[3] was inappropriate because PI insurance cover is only a fraction of the overall losses experienced by investors and 'fraud' renders the PI insurance null-and-void. The Parliamentary Joint Committee (PJC) recognised that retirement savings plundered by the Trio fraud were substantial, rendering the Financial Ombudsman Service (FOS) and the Superannuation Complaints Tribunal (SCT) resolution mechanism inappropriate.

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[1] ASIC Grant of financial assistance
http://www.asic.gov.au/asic/asic.nsf/byHeadline/Grant%20of%20financial%20assistance%20(Trio)?opendocument
[2] NICOLE HASHAM Trio rescue package brings joy, heartache APRIL 12 2011
http://www.illawarramercury.com.au/story/635150/trio-rescue-package-brings-joy-heartache/
[3] *Parliamentary Joint Committee on Corporations and Financial Services Inquiry into the collapse of Trio Capital May 2012* page 50

Indeed, encouraging action against financial advice after "fraud" is contrary to what the great Lord Denning had to say about fraud. According to Lord Denning, *"Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved it vitiates judgments, contracts and all transactions whatsoever."*

Lord Denning's finding in LAZARUS ESTATES LTD -V- BEASLEY; CA 1956 Denning LJ, Lord Parker LJ suggests the financial advisor(s) could not be blamed for the client's loss of money to "fraud" unless the advisor(s) is part of the fraud. Ticket sellers who sold passengers their fateful Titanic ticket were not held accountable for the sinking of the ship.

Folly about access to legal assistance:
In October 2011, Administrator Law Barrister Jim Johnston, informed a group of Trio victims that it would cost about $6 million to run a legal case against the government and even if you win you get nothing because ASIC cannot be sued.

Legal firms did encourage the Trio victims to join a class action. The first action started in 2011 by Macpherson & Kelley Lawyers, of Melbourne. After the joining fee, M&K submitted a request for Litigation to the International Monetary Fund (IMF) IMF (Australia) Pty Ltd to check it the IMF would support a court case for the Trio victims. The IMF considered an action against the ASF/Trio directors, the research houses and custodians (ANZ and NAB).
M+K's letter to the victims dated June 2012, noted that IMF said, *'that the cost of running an investor's class action in this particular case would be prohibitive, with an unacceptably high risk that no money could be extracted from the case to provide at least some compensation to investors. On that basic IMF decided it will not grant funding for legal costs of running the case.'*
M+K added, *'Whether or not you might in years to come ever receive compensation for your losses will very much depend on the Australian Securities and Investments Commission (ASIC) and the Government doing something that it seems only they have the power to do.'*

Another law firm, Mark McDonald of Maguire & McInerney ran a class action against financial advisor Mr Ross Tarrant. About one year later, Mr McDonald passed clients on to Slater & Gordon. Fees increased, some in the class action who had no income or limited assets dropped out. The Slater & Gordon case ran for about two years and the people who remained the distance nearly recouped their legal expenses.

The Trio fraud affected 6,090 investors. Of these the APRA-regulated investors - 5,358, were compensated. The consumers who were not eligible for compensation consisted of 690 self-managed super fund trustees and direct investors. In 2012 a group of the Trio victims formed Victims of Financial Fraud (VOFF Inc), its aim - to fight for justice.

In June 2013, a VOFF delegation met with Senator Connie Fierravanti-Wells, Senator Mathias Cormann and Mr Paul Fletcher MP in Canberra. At the meeting it was suggested that an independent investigation into Trio's unresolved issues would offer an efficient and expedient process rather than a protracted government inquiry. Everyone agreed but nothing happened.

In September 2013 with the Tony Abbott Government in office, VOFF was invited to present the government with a submission arguing a case for compensation. In January 2014 VOFF hand delivered a 46-page submission to The Assistant Treasurer, Senator Arthur Sinodinos's office. But before VOFF received a reply, the Independent Commission Against Corruption (ICAC) required Mr Sinodinos to face a corruption inquiry in respect to his salary from Australian Water Holdings (AWH).
Mr Sinodinos's appearance before ICAC added to the list of disruptions:
• *June 2010 – the backstabbing saga when Gillard ousts Rudd in a bloodless coup.*
• *March 2013 MP Bishop raised PM Gillards role in the AWU slush fund of the 1990s.*[4]
• *August 2014 ICAC exposes the NSW Legislature as the most corrupt parliament in Australian history.*[5]

[4] Hansard House of Representatives March 18 2013 page 52
[5] Miles Godfrey The Daily Telegraph August 29, 2014. http://tinyurl.com/ycfrrg5p

• *September 2014 Transparency International's Corruption Perception Index noted 'Australia's slide into corruption in political parties'.*[6]

ASIC has the power to assist consumers:

According to Jane Petrolo, Barrister, ASIC has extensive powers,

> *"ASIC also has the power to commence public interest proceedings in the name of private plaintiffs (such as creditors, shareholders or the corporation) where such plaintiffs have suffered loss or damage and are left without sufficient resources to maintain expensive and complicated litigation."*[7]

Jane Petrolo adds,

> *"In practice however, ASIC nearly always refers major prosecutions to the Commonwealth Director of Public Prosecutions (DPP)."*[8]

On July 13th 2016 a VOFF delegation met with ASIC, PPB Advisory and a minister from Kelly O'Dwyer's office. VOFF asked ASIC to use its powers and launch a restitution action on behalf of the 690 uncompensated Trio victims to claw back the proceeds of crime. ASIC declined.

The Trio consumers considered employing a private forensic investigator to investigate where the Trio money went. VOFF wrote, September 2nd 2014, to two forensic investigators asking,

> *Could an investigation into Trio Capital's money trail be carried out considering ASIC and APRA will not release any information about Trio?*
> *The victims of the Trio crime do not know where the money went;*
> *Did $180m go overseas and end up with the kingpin Jack Flader?*
> *Or did the $180m remain in Australia?*
> *Is there any way that ordinary people can find out what happened?*
> *How much would an investigation cost?*

- Rob Locke of Ernst & Young, Fraud Investigation and Dispute Services, said September 15th 2014, '*it would critically impair an investigation if ASIC and APRA refuse to release information'*.
- Regents Risk Advisory, forensic investigation service telephoned September 18th 2014 and Jeff explained his background in detective work, previously worked with ASIC and the Australian Crime Commission (ACC). He said the documents denied to the victims would also be denied to the forensic investigators. They could not get documents anymore easier than the victims. He added that because there are no documents, the investigation would need to start from scratch.

The Trio consumers found nothing resembling a *fair, affordable and appropriate resolution processes to resolve disputes with financial service providers*. A forensic investigation was prohibitive for victims of a crime.

It took ASIC six months, after it was informed that Trio was possibly a Ponzi, before ASIC acknowledged that the Trio assets were missing. Then ASIC focused on financial advice, as seen in ASIC's correspondence with the Australian Federal Police (AFP), obtained under Freedom of Information, June 21st 2012. ASIC appear to mislead the AFP,

> *'Trio was a funds management group based in Albury, NSW and provided a complex suite of managed investment funds which were heavily marketed through several financial advisors in Australia. These financial planners earned fees and commissions based on investments into Trio funds...It is alleged that financial advisers provided recommendations to clients due to high commissions which were paid by Trio It is further alleged that the complex structure of the Trio scheme was designed to conceal fraudulent activity.'*[9]

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[6] Neville Tiffen Australia's slide into corruption must be stopped December 5, 2014 http://www.theage.com.au/comment/australias-slide-into-corruption-must-be-stopped-20141203-11zso4.html

[7] Jane Petrolo Barrister, ASIC's Power to Investigate After the Commencement of Proceedings.July 2007 Page 4. http://www.janepetrolo.com/wp-content/uploads/2011/07/ASICs-Power-to-Investigate-CPD.pdf

[8] Jane Petrolo. Op. cit Page 5.

[9] VOFF FOI No 373 to the AFP July 28 2015 17 pages and 2 pages http://www.mysuperrights.info/resources/CRM2016-45%20Documents.pdf http://www.mysuperrights.info/resources/Schedule%20-%20Released%20Documents%20-%20CRM2016-45.pdf

ASIC wrote in the letter, '***several financial advisors'*** but it never identified who they were. ASIC also wrote, '***These financial planners earned fees and commissions***' but no one was charged over this matter. In the same letter, ASIC doesn't mention Industry funds yet they represented the largest exposure to the fraud; no mention of the overseas Trio operators who had breached securities laws in the United States; no mention that ASIC visited American lawyer Mr Jack Flader and Scottish accountant Mr James Sutherland's Hong Kong office in 2002 to secure 100,000 documents in regards to a fraud against the Commonwealth.

Why did ASIC withhold such important information from the AFP?
The AFP noted in the letter that *'the material provided by ASIC does not provide sufficient information to support an investigation into any Criminal Code Act 1995 offences...'*

How can a proper compensation scheme of last resort be set up when there no transparency into what ASIC and APRA do?

In regards to Trio, VOFF perceive ASIC chose not carry out a thorough investigation into the 'fraud' or did it follow the trail of the missing $194 million. Information held by ASIC about the crime is not publicly available, such as Appendix 4; the GCSL documents; evidence provided by Shawn Richard; including what ASIC learnt about Flader and Sutherland when it travelled to their Hong Kong office - long before the Trio scheme started.

ASIS's response to the Trio fraud is just as important as its response to the banking misconduct. ASIC is required by legislation to respond to fraud and proceed with enforcement and the expected level of public benefit:

- *Whether the case is likely to clarify the law and help participants in financial markets to better understand their obligations*
- *The length and expense of a contested hearing and the remedies available compared with other remedies that may be available more quickly (e.g. improved compliance under an enforceable undertaking).*[10]

VOFF found no evidence where ASIC acted in the best interest of consumers.

In April 2016 Ms O'Dwyer said, "*the investor groups are made up of direct investors and Self Managed Super Fund (SMSF) trustees, and neither of these groups are covered by the compensation framework under the Superannuation Industry (Supervision) Act 1993 (SIS Act).*"*....."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."* [11] VOFF strongly disagree with Ms O'Dwyer's non evidence-based statement.

Did the banks as custodian meet their obligations?
The statement, '*whether banks generally have behaved in a way that meets community standards when dealing with consumers trying to exercise their legal rights*' is a failed expectation concerning the Trio matter. For example, in early 2009 the Sydney Morning Herald contacted the custodian of the Trio Capital Limited scheme, the National Australia Trustee, to enquire about the Astarra Strategic Funds' assets. The bank provided a statement confirming that the assets were indeed in the safe custody of the bank. The bank's statement quelled the Herald's concerns. The bank had passed on the deceptive information that the Trio scheme had given the bank.[12] The mistake suggests the custodian was not fulfilling its role as an independent gatekeeper as required under legislation. By incorrectly confirming that assets were indeed in the safe custody of the bank, the Herald was inadvertently prevented from possibly discovering the fraud months before it was eventually discovered. In terms of money flowing into the ASF during this critical period (a figure

[10] ASIC Information Sheet 151 ASIC's approach to enforcement September 2013 Page 8.
[11] http://kmo.ministers.treasury.gov.au/media-release/032-2016/
[12] PJC Report 2012 *Op. cit.* page 34 ref. Mr John Hempton, 'A dark privatised social security story: Astarra, the missing money and how examining a fund manager owned by Joe Biden's family led to substantial regulatory action in Australia', Bronte Capital, 2 January 2010, http://brontecapital.blogspot.com.au/search?q=trio (accessed 17 April 2012).

could be calculated if documentation was made available), VOFF estimate the figure to be in the tens of millions of Australian dollars.

On October 6th 2016 VOFF submitted a Freedom of Information (FOI) request to ASIC seeking information about the bank sending the journalist away. On November 3rd 2016 ASIC refused under Section 24A of the FOI Act – meaning no document could be found or does not exist. VOFF understand that the bank warned the Herald journalist with legal action if it didn't stop the investigation.

Money laundering:
Following the release of the Banking Royal Commission Interim Report, on 12 October 2018 Shayne Elliott Chief Executive Officer, ANZ, invited disgruntled bank customers to email him directly.[13] On 16 October 2018 VOFF asked Mr Elliott why the ANZ Custodian Services of Trio Capital and Astarra Strategic Fund, over a three to four year period, sent nearly $200m overseas but are exempt from AML-CTF law?

Mr Elliott's letter dated 16 October 2018 said, *"I refer to the letter by email dated 16 October 2018. ANZ is "not exempt from AML-CTF" laws and is required to, and does, meet its reporting obligations to AUSTRAC including the obligation to report all cross-border funds transfers."*

Mr Elliott's statement challenges the PJC's 2012 statement, *"The custodian does virtually nothing to protect the funds of investors. It makes no independent checks before transferring money offshore. Instead, the custodian simply acts on the instructions of the responsible entity".* [14]

VOFF understood the above statement to mean that responsibility stopped with the RE. In Trio's case, the RE was the perpetrator of the fraud who didn't act in the interest of the investors.

Mr Elliott shone new light on the custodian's obligations under AML-CTF laws and raises the question did the PJC get it wrong in 2012?
The PJC Committee even recommended ASIC to look into strengthening '*safeguards that a custodian could put in place to ensure it is able to identify and report suspicious transfers that do not trigger the anti-money laundering provisions.'* [15]
Why didn't ASIC clarify the matter?

During the operational life of the Trio scheme 2004 to 2010, the investors relied on both the Australia and New Zealand Banking Group (ANZ) and the National Australia Bank (NAB) as Custodians, to accurately, responsibly account for the Trio assets they handled.

The difference between what consumers expect from the custodian and what the custodians provide, led the PJC to write Recommendation 8, suggesting,
'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.'[16]
Like other legislation changes that followed the Trio fraud, the change to the misrepresentation of the term 'custodian', was too late to benefit the victims.

Trio made large and continuous cash deposits, even a $50m transfer to a foreign tax haven. Unknown to the Trio consumers that their savings were being sent to a foreign tax haven, but this detail would have been apparent to the custodians.
Were any of Trio's large money transactions reported to the Australian Transaction Reports and Analysis Centre (AUSTRAC)?
Was Trio's $50m transfer reported? Did the $50m transfer ring alarm bells? If not, why not?

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[13] Peter Ryan ANZ boss Shayne Elliott urges disgruntled customers to email him directly 12 Oct 2018 http://www.abc.net.au/news/2018-10-12/anz-boss-shayne-elliott-fronts-parliament/10368460
[14] The Parliamentary Joint Committee on Corporations and Financial Services Inquiry into the collapse of Trio Capital, May 2012 Report Page 132
[15] PJC Report May 2012 pp 132 & 133
[16] PJC Report May 2012 page xxviii

There is no evidence to show that Trio's missing money was reported under money laundering legislation. To verify whether reports were made, VOFF submitted an FOI request to ASIC, on June 25th 2014. VOFF sought documentation for the period 2007 to 2009 of potential weaknesses in the financial system at both the national and international level that could attract money laundering and terrorist financing.[17]

On October 13th 2014 ASIC said it had located relevant documents – provided a schedule list but all are exempt under s33(a)(iii) s37(2)(b) s47C and s47E of the FOI Act.

With no transparency around AML/CTF issue, citizens are denied information, denied the opportunity to be well informed and denied the option where they could contribute to society.

In 2017 the CBA's failure to report 53,700 money transactions (as it is required to report under the AML/CTF Act) suggests a structural deficiency because the issue went under the radar. Similar structural deficiency with Trio 'enabled crime figures to open individual or company accounts or deposit funds with minimal or false identification, and quietly move millions of dollars'[18] into overseas locations only known to the fraudsters.

Consumers expect the financial system to be properly operated within a legal framework. The Trio matter shows that the supervision is wanting. Trio products were in full view of ASIC, APRA, custodian, auditor, research houses and star rating firms yet the investors' had their savings stolen. Why did Trio's money laundering (a text-book example of money laundering) not face charges over systemic non-compliance with the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act)?

Now the financial system has undergone extensive change since the Trio fraud, changes seemingly introduced by stealth, without acknowledgement of certain weaknesses that necessitated the fix. The current regulatory regime is now recognised as being significantly different from the regime that was in place at the time of the Trio fraud. See correspondence from Darren Kennedy dated 6 November 2018 page 7 of this submission.

[17] VOFF FOI Number 197 to ASIC - June 25th 2014.
[18] N McKenzie, R Baker, G Mitchell It's not just CBA: all the banks are exposed to millions in money laundering Sept 15 2017
http://tinyurl.com/yag9yk2l

Australian Government
The Treasury

Ref: MC18-007930

Mr John Telford
Secretary VOFF Inc
johnt@1earth.net

- 6 NOV 2018

Dear Mr Telford

Thank you for your correspondence of 24 October 2018 to the Treasurer concerning the collapse of Trio Capital. The Treasurer has asked me to respond to you.

On behalf of the Government I wish to express my sympathies to all investors affected by the Trio collapse, and to acknowledge the significant financial and personal stress that the collapse has caused them and their families, including to those who lost their entire retirement savings.

As you are aware, the Government has established a Royal Commission and appointed former High Court Judge, the Honourable Kenneth Madison Hayne AC QC, as Commissioner to inquire into the conduct of banks, superannuation and financial services entities to examine allegations of misconduct or conduct that falls below community expectations. The Royal Commission is examining similar issues to those you have raised in your letter and the Government will consider its response after the Commission reports in February 2019.

I note that the current regulatory regime is significantly different from the regime that was in place at the time of the Trio Capital collapse, in part because of the lessons learned from the collapse. In addition, the Government remains committed to the comprehensive package of superannuation reforms it introduced into Parliament last year. As part of this Member Outcomes package, before a change of ownership of a trustee can occur, the potential owner would need to obtain APRA approval. Changes to superannuation director penalties will address a gap in the criminal and civil penalty framework concerning misconduct of a superannuation trustee director. The measure will ensure that superannuation trustee directors are held accountable for their conduct in the same way as directors of managed investment schemes (consistent with Financial System Inquiry Recommendation 13).

More information on the package can be found at: http://kmo.ministers.treasury.gov.au/media-release/093-2017/.

Yours sincerely

Darren Kennedy
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VOFF tried to lodge a complaint:
The Senate Legal and Constitutional Affairs Committee raise some questions about the Australian Financial Complaints Authority (AFCA), of its accessibility and appropriateness as an alternative forum for resolving disputes. VOFF did write to the AFCA in January 2019 but AFCA advised that as our complaint points to ASIC and APRA's handling of the Trio fraud, we need to contact the Commonwealth Ombudsman's office. VOFF had complained to the Attorney General's Office and received a reply saying, '*Unfortunately, the Attorney General is unable to assist in superannuation matters.*'
The Commonwealth Ombudsman's Office said it, *'does not have a role in influencing or directing how ASIC operates or what its regulatory priorities should be*.'
See the Commonwealth Ombudsman's Office correspondence at page 9 of this submission.

Despite Kenneth Hayne finding that ASIC was reluctant to act against misconduct in banking and financial services industry, he placed ASIC in charge of cleaning up the misconduct. Here are just some of ASIC's failings in its handling of Trio.

i) failed to acknowledge that ASIC travelled in 2002 to the Hong Kong office of American lawyer and Scottish accountant in regards to a 'fraud' against the Commonwealth. The two men were already on ASIC's company registration data base after registering a holding company in 2001. That holding company went on to purchase the Australian Trust fund in November 2003 and that later became Trio;
ii) ASIC failed to prevent known criminals from entering the Australian financial system;
iii) failed to carry out background checks on the new owners of an Australian business;
iv) failed to note warnings by international regulatory authorities of unlicenced firms;
v) failed to check people behind the licences ASIC approved for Trio;
vi) failed to adequately regulate the Trio scheme;
vii) failed to communicate with APRA, AUSTRAC, ACC, AFP and the ATO;
viii) failed to address Trio's irregularities;
ix) failed to investigate the crime properly once the fraud was discovered;
x) failed to correct the misuse of its 'swimming between the flags' brochure;
xi) failed to provide accurate information when informing or updating the public about the Trio fraud;
xii) failed to accurately provide facts to the PJC inquiry and the NSWSC. The omission of information by ASIC from the NSWSC benefited the Trio perpetrator as the judge reduced the perpetrator's prison sentence by wrongly relying on ASIC's deception;
xiii) failed to safeguard the Australian financial markets from known weaknesses that '*enabled crime figures to open individual or company accounts or deposit funds with minimal or false identification, and quietly move millions of dollars'*[19] in Trio's case, to undisclosed locations;
xiv) failed to warn that ordinary investors do not have the tools to identify sophisticated fraud[20];
xv) failed to correct the public record about financial advisor's 'secret commissions'; and
xvi) failed to inform victims of their right to submit a Victims Impact Statement to the court.

[19] N McKenzie, R Baker, G Mitchell It's not just CBA: all the banks are exposed to millions in money laundering Sept 15 2017
http://tinyurl.com/yag9yk2l
[20] Victoria Tait 'ASIC wants MIS underlying portfolio disclosure, Medcraft 'very, very passionate' on issue 23 Feb 2012
http://www.investordaily.com/13592.htm

COMMONWEALTH OMBUDSMAN

Our ref: 2019-400074

19 February 2019

Mr John Telford
Secretary
Victims of Financial Fraud
[redacted]

By email only to: johnt@1earth.net

Dear Mr Telford

I refer to your complaints about ASIC and our conversation on 14 February 2019.

I acknowledge you found my letter frustrating because you thought I had not addressed the issue you brought to our attention. For this, I apologise.

I understand you believe the letter from the Guernsey Financial Services Commission mentions communication between Mr Carl Meerveld, and ASIC. You assert this letter demonstrates that Mr Meerveld offered to talk to ASIC but ASIC did not take that offer up. You also assert that ASIC failed to inform the New South Wales Supreme Court of this. You want the Ombudsman to investigate why ASIC did not pursue this and whether it misled the court.

Decisions about how litigation is conducted and what evidence is presented to the court involve detailed analysis and assessments about a range of technical and practical considerations, including arguable matters of legal opinion. The Ombudsman has no role is this space. We cannot be of any further assistance to you or VOFF.

Yours sincerely

Ellisha Hill
Assistant Director
Early Resolution Team

Part 23 of the SIS Act:
Following the Trio fraud, the media made it known that SMSF trustees are not protected from "fraud" or entitled to compensation under Part 23 of the Superannuation Industry (Supervision) Act 1993 (SIS Act). Research of the period between 2004 to September 2009 (during the life of Trio) shows that the Trio consumers had no warning or guidance about:
a) Fraud protection under the SIS Act & this protection only applied to APRA regulated funds;
b) International fraudsters can target superannuation;
c) Weaknesses in the financial system that fraudsters can exploit;
d) Superannuation savings can be siphoned to undisclosed overseas locations without the superannuation fund's knowledge;
e) ASIC & APRA are powerless to act against fraud in international jurisdictions;
f) Easy for fraudsters to flout money laundering & counter-terrorism financing laws (AML-CTF);

Once 90% of the Trio victims were granted compensation under the SIS Act, the fact that consumers were never warned or guided was irrelevant, as the issue was resolved. The Trio consumers who were not entitled to compensation were made to look like they wanted to be in an unprotected fund and that they wanted to take greater risks.

Under FOI law VOFF received a copy of the Part 23 of the Superannuation Industry (Supervision) Act 1993 (SIS Act). Had the SIS Act been made available to superannuation consumer(s) before September 2009, the Act alone would not have given the reader the type of information needed to avoid something like the Trio fraud.

Part 23 Application for assistance notes,

(1) If:

(a) a fund suffers an eligible loss after the commencement of this Part; and

(aa) at the time it suffers the loss, the fund is:

(i) a regulated superannuation fund (other than a self managed superannuation fund);

It is understood that Part 23 protects APRA-regulated funds because the funds are handled by many hands, whereas, SMSF trustees don't steal from themselves. Consequently the SMSFs don't need the same protection.

The SIS Act was written in 1993, before the Managed Investments Act 1998 (MIA) commenced on 1 July 1998.
If the SIS Act architects anticipated a large-scale fraud in a Managed Investment Scheme (MIS) then why did the architects protect one group without informing the other groups?
Why would the architects deny information and prevent consumers from making an informed decision?

Prior Sept 2009, investors starting a superannuation fund were not aware of the protection offered by Part 23. This was not a failing by financial advisors to inform clients. Some financial advisors said they were in the industry for decades and never heard about Part 23 of the SIS Act.
APRA and Treasury were active in attending roundtable meetings where Part 23 legislation was discussed. APRA helped shape legislation around Part 23 but APRA never informed the market.[21]
In addition to the roundtable meetings, APRA also met on several occasions with the directors of Trio. By 2006, APRA reached the conclusion that the Trio directors were a "bunch of incompetents" but never informed the market. APRA chairman Ross Jones informed VOFF that it's

[21] First meeting July 17th 2003 called Review of Part 23 of the Superannuation Industry (Supervision) Act 1993 - Industry Consultation. 12 attendees - APRA 4 attendees, Association of Superannuation Funds of Australia 3, Corporate Super Association 1, Institute of Actuaries 1, Investment and Financial Services Association, Law Council of Australia 1, Treasury 4 and Trustee Corporation Australia 1. No indication the above organisations represented SMSFs or direct investors.
Second meeting July 21st 2003 called *Review of Part 23 – Industry Roundtable Meeting*. 10 attendees -
APRA 4, Association of Superannuation Funds of Australia 3, Australian Institute of Superannuation Trustees 1, Corporate Super Association 1, Law Council of Australia 1 and Trustee Corporation Australia 1. No one represented the interests of self-managed investors. Whatever was discussed at these important meetings was not made public. Self-managed trustees were never consulted about the decisions made that directly related to financial security issues. APRA is perceived as having interest to protect APRA-regulated funds. Information released to VOFF under FOI request to Treasury March 2015.

not required to inform the market. [22]

APRA governs and regulates the market but selectively looks after the interests of APRA-regulated funds only. Prior the Trio fraud, people were encouraged into superannuation, encouraged by tax incentive, encouraged not to be a burden on the pension system. The same people recognise that there was no publicly available information about 'fraud' in superannuation or warnings about the dangers facing people who are mandated into superannuation. To suggest the SMSF trustees chose not to have 'fraud' protection is misleading.

Recent evidence ignored:
In early 2017, VOFF received information about the former Trio fund manager Mr Carl Meerveld. Mr Meerveld lived in Hong Kong throughout the 1990s to 2008, he was one of the Trio "underlying" fund managers. In 2008 he settled in Guernsey. In July 2009 while Mr Meerveld was resident in Guernsey, his management role with Global Financial Managers Ltd, the St Lucia British Virgin Island (BVI) company saw the transfer of AU$57m to the Exploration Fund. These securities disappeared from the Exploration Fund between that time and the time that the Trio administrator (PPB Advisory) gained access to the assets of the Exploration Fund in 2010.

In early 2016 Mr Meerveld stood as a candidate for Deputy position for Saint Sampson parish in Guernsey. Some of the Guernsey residents discovered on Google that Mr Meerveld was named in Australian court documents in relation to the Trio Capital fraud. Concerned Guernsey citizens approached Mr Meerveld over his connection with the Trio fraud. He defended his position by presenting a letter mediated by The Guernsey Financial Services Commission (GFSC) dated 3 September 2010. The letter shows he offered to assist ASIC's Trio investigation but ASIC declined his offer. VOFF acquired a copy of the letter in early 2017. See single page of the 4-page media statement (undated) released late 2016 or early 2017 by Mr Meerveld at page 13 of this submission.

ASIC never questioned the overseas Trio operators. ASIC's jurisdictional limitations weaken its enforcement powers. But according to the concerned people in Guernsey, ASIC can ask the Guernsey authorities to question Mr Meerveld and, they can carry out the questioning under Clause 11 of the Fraud (Bailiwick of Guernsey) Law, 2009. The legislation allows the Guernsey authorities to question any person who might be linked to fraud anywhere in the world, if they were living in Guernsey at the time. Apparently it's not a high priority issue for the Guernsey authorities because no one in Guernsey was directly harmed by the Trio fraud. Sources in Guernsey said the Guernsey authorities would respond if they received a request from ASIC.

VOFF wrote to ASIC Chairman James Shipton pointing out the opportunity for ASIC to be "proactive" and use "*the mindset of the ASIC of today"* as mentioned at *The Banking Royal Commission* in November 2018. ASIC have an opportunity to possibly learn of what happened to the missing money. Mr Shipton did not reply to VOFF's letter.

Mr Meerveld's offer to assist ASIC, invites the question, why didn't ASIC inform the NSW Supreme Court at the trial of Shawn Richard in August 2011? During the trial the court referred to the overseas operators and suggested that the overseas Trio managers would be hard to track down and would be uncooperative witnesses.
Mr Meerveld's offer of assistance shows that the court got it wrong.

With the omission of facts from the NSWSC seemingly the court overvalued the significance of Mr Richard's assistance and overvalued the time saved by avoiding '*significant time and resources seeking to gather independent admissible evidence, including evidence from uncooperative witnesses from numerous overseas jurisdictions'.*[23]

[22] July 5, 2012 meeting APRA's office in Market St. attendees VOFF delegation, the then Superannuation Minister, Bill Shorten, APRA's Ross Jones and ASIC's Greg Medcraft. Also see, Hansard, Parliamentary Joint Committee on Corporations and Financial Services, Collapse of Trio Capital. (30.8.2011) - Sydney p 38
[23] Regina v Shawn Darrell Richard [2011] NSWSC 866 (12 August 2011) before Garling J.

Consequently the court rewarded Mr Richard's pleas of guilty with a discount of 25% off his sentence with an additional 12.5% discount allowed for the utilitarian value of the pleas of guilty.[24]

Mr Meerveld's willingness to assist ASIC is not the only example of overseas Trio operators offering information. In March 2010 Mr Meerveld's Hong Kong work colleague, American lawyer Mr Jack Flader, sent the Sydney Morning Herald information in an attempt to set the public records straight about Trio. That's two principle overseas Trio operators from the largest superannuation theft in Australia's history, both offering their assistance to help ASIC but in both cases ASIC showed no interest. In addition to not informing the NSWSC, ASIC never informed the Parliamentary Joint Committee, the public or the Trio victims.

Mr Richard who was sentenced for '*providing misleading information to those entitled to accurate information*'[25] outlined his assistance to ASIC (which the court rewarded him) in the confidential document tabled 'Exhibit B'. No one can access the document and no one has verified the content. ASIC's omission of material facts to the NSWSC is perceived by VOFF as an interference with the course of justice. The Trio victims are worse off due to ASIC's omission.

[24] ibid.
[25] ibid.

GUERNSEY
FINANCIAL
SERVICES
COMMISSION

6 SEP 2010

KEVIN BOWN CFE
Deputy Director of Intelligence Services

Your ref: PTRF/MB/M2475001/4908118.1
Our ref: Y274/KJB

Advocate P T R Ferbrache
Mourant Ozannes
1 Le Marchant Street
St Peter Port
GY1 4HP

3 September 2010

Dear Advocate Ferbrache

Mr C P Meerveld
Enquiry by Australian Securities and Investments Commission ("ASIC")

I refer to our previous exchange in connection with ASIC's wish to have a discussion with Mr Meerveld on a voluntary basis. I relayed your message to ASIC and I have just received their response. They express their thanks for the assistance given and to Mr Meerveld's agreement to speak with ASIC but they now wish to hold off from taking up that offer. They may wish to explore this avenue at some point in the future but it can be considered dormant for now. If circumstances change, I shall be in touch again.

Yours sincerely

GUERNSEY FINANCIAL SERVICES COMMISSION
P.O. BOX 128, LA PLAIDERIE CHAMBERS, LA PLAIDERIE, ST. PETER PORT, GUERNSEY GY1 3HQ
TELEPHONE: (01481) 712706/712801 FACSIMILE: (01481) 712010 INTERNATIONAL DIALLING CODE: 44 1481
E-MAIL: info@gfsc.gg INTERNET: http://www.gfsc.gg

Loopholes and Weaknesses:
The Trio consumers were let down by a systemic failure of the financial system. Some of the weak points that made the Trio fraud possible are still part of the financial system. ASIC, APRA and Treasury know about the weaknesses. The market does not know and the market is not entitled to find out. At the May 2013 Statutory Oversight of ASIC, the committee said, *"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."*[26]

Reference to "loopholes in international fraud detection and response" suggests weaknesses. VOFF tried in 2013 to request information from APRA about ASIC's limitations. APRA said no document was found.[27]

In January 2017 VOFF requested document from ASIC about Trio's overseas funds in regards to jurisdictions being an international problem.[28] But in May 2017 ASIC refused VOFF request under paragraph 24AA(1)(b) of the FOI Act, … the request does not satisfy the requirement of paragraph 15(2)(b).

Relying on the August 2011 Official Committee Hansard, where 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."[29]
This led VOFF to request from Treasury in February 2017 the document about loopholes and weaknesses.[30]

By June the correspondence to Treasury had gone back and forth 10 times and had reached a stalemate. VOFF wrote letter dated July 7th 2017 to the Office of the Australian Information Commission (OAIC) arguing for the release of a Schedule to show what documentation is being refused by Treasury or/and for Treasury to release the part of the document that is not exempt.

Correspondence reached 32 times when on May 7th 2018 VOFF asked the OAIC why keeping information about weaknesses secret was in the public interest.

18-months from the start and the 36th letter dated June 19th 2018 from the Information Commissioner said, "*The Department of the Treasury has provided the attached further submissions in this matter.*
Please note that certain parts of Attachment B are redacted because certain information has been provided to the OAIC in confidence."

The weaknesses ultimately concern the financial security of the estimated 15 million superannuation account holders.

• See the 2-page letter dated 14 May 2018 from Treasury to OAIC and
• See the 4-page letter from APRA addressed to FOI Officer at Treasury dated 8 May 2018.
These documents are found between pages 15 to 20 of this submission.

[26] Statutory Oversight of the Australian Securities and Investments Commission, Chapter 5 - Developments with Trio Capital, Whitehaven Coal, Macquarie Entities and Storm Financial page 47.
[27] July 2013 VOFF FOI number 134 to APRA
[28] January 2017 VOFF FOI number 452 to ASIC
[29] Parliamentary Joint Committee On Corporations And Financial Services - Collapse of Trio Capital - 30 August 2011, page 41.
[30] February 2017 VOFF FOI number 456 to Treasury

Australian Government
The Treasury

14 May 2018
FOI ref: 2088
OAIC ref: MR17/00343

Gillian Cameron
Office of the Australian Information Commissioner
By email: gillian.cameron@oaic.gov.au

Notice of IC review and request for documents – John Telford and Treasury

Dear Ms Cameron

I refer to your correspondence dated 19 April 2018, in relation to Mr John Telford's application for Information Commissioner review of Treasury's decision under the *Freedom of Information Act 1982* (the Act) dated 24 March 2017.

Requested information

In your correspondence, you requested a further submission in support of Treasury's original decision and previous submissions to the OAIC on 21 August 2017 and 8 March 2018. On 7 May you advised that Treasury could provide a confidential submission on this matter.

In support of this submission, and in order to address the substance of your questions, I sought a letter from APRA. I consider it most appropriate in this case for APRA to address the material harm that would come from releasing this document, as it is APRA's operations that would be so harmed.

The full confidential letter from APRA is at **Attachment A**.

A partially redacted version of the letter, which can be provided to the applicant, is at **Attachment B**.

Treasury's submissions in relation to the questions you raised are set out below, and can be provided to the applicant in full.

Submissions about why exemptions were not relied on in original decision

The original decision was made to exempt the document in full, and the deliberative exemption provision was applied in relation to the entire document.

The proposed revised decision is to exempt the document in part. The exemption provisions recommended for this revised decision are applicable only to certain parts of the document, and would not have been appropriate to apply to the entire document in the first instance.

Treasury maintains that the suggested exemption provisions are applicable to the sections of the document as previously recommended.

Submissions about the passage of time since the document was created

APRA has asserted that the risks discussed in the document are still relevant. Treasury supports APRA's assertion.

Reasonable expectation

The reasonable expectation of harm is demonstrated within the document itself. Mr Telford has made a significant number of public statements about the actual harm that was caused to him, and others, by the collapse of Trio Capital. Within the document, the author specifically describes the relationship between the legislation and the investigation into Trio Capital that led to this harm.

The discussion of the legislation, however, is not limited to Trio Capital. If the document were released, it would reasonably be expected that it would enable others to repeat the actions of Trio Capital. If this happened, then it would expose other people to the same actual harm that Mr Telford himself has been exposed.

Public interest factors

Treasury made submissions relating to public interest in its letter to the OAIC of 8 March 2018. APRA has made a further submission on this issue in the attached letter. Treasury has nothing more to add in support of these submissions.

The applicant's additional contentions

In his submission of 7 May 2018 Mr Telford has drawn a comparison between the document and the banking data breach. The situation that Mr Telford describes relates to notifying potentially affected persons of a privacy breach. Releasing the document would not alert any affected persons to any real or potential harm, but in actuality would expose people like Mr Telford to an increased risk of harm.

While I am sensitive to the fact that Mr Telford has not read the document, I respectfully disagree that the two situations are analogous.

Next steps

Treasury is willing to provide further submissions in relation to the review if required.

Should you have any enquiries concerning the matter, please email FOI@treasury.gov.au.

Yours sincerely,

Ian Beckett
Principal Adviser
Fiscal Group

AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY
1 Martin Place (Level 12), Sydney, NSW 2000
GPO Box 9836, Sydney, NSW 2001
T 02 9210 3000 | W www.apra.gov.au

8 May 2018

Brad Collins
Freedom of Information Officer
The Treasury
Langton Crescent
Parkes ACT 2600

By email: foi@treasury.gov.au

Dear Brad

INFORMATION COMMISSIONER REVIEW – MR17/00343
Request from Mr John Telford, on behalf of Victims of Financial Fraud (VOFF)

1. Thank you for inviting APRA to make submissions in relation to the above Information Commissioner review (**IC review**).

2. APRA consents to a copy of this letter being provided to the Office of the Australian Information Commissioner (**OAIC**) for the purpose of conducting the IC review. APRA requests that this letter be kept confidential and not be provided to the applicant, as it contains reference to the content of the document subject to this review. In accordance with the OAIC's email dated 7 May 2018, APRA has provided a separate version of the submission that can be shared with the applicant.

3. APRA has set out its submissions using the headings provided in the email dated 19 April 2018 from the OAIC to the Treasury.

Why exemptions were not relied on in original decision

4. In March 2017, the Treasury consulted with APRA in relation to the relevant document. APRA submitted that the document should be exempt in full as it contains deliberative material and disclosure would be contrary to the public interest. APRA did not consider that it was necessary to rely on further exemptions in its submissions. In the interest of time and cost efficiency APRA does not as a matter of practice rely on every available exemption when making a decision to release a document. Rather it relies on the strongest exemptions.

5. In March 2018, during the course of the Information Commissioner review, the Treasury recommended a partial release of the document with parts being redacted on the basis of the exemptions in sections 37(2)(b) and 47E(d). The Treasury's recommendation arose following the OAIC review officer indicating her preliminary view that there are strong public interest factors in favour of disclosure. APRA agrees with the approach proposed by the Treasury to partially release the document subject to the redaction of the exempt material.

The passage of time since the document was created

6. There have been no changes to the legislative provisions referred to in the relevant document since July 2012. [redacted]

7. There is general ongoing public debate about reforms needed to the superannuation framework to ensure that it remains fit for purpose as the superannuation industry continues to evolve and expand. Recent proposed reforms have focused on improving the legislative and regulatory framework, including through proposals to provide APRA with the power to issue directions [redacted] These reforms have not to date been implemented, nor do they specifically address the gaps discussed in the relevant document. The gaps in the legislation identified in the relevant document still exist today.

Reasonable expectation

8. In the OAIC's email to the Treasury dated 1 May 2018, Ms Cameron stated 'it is my view that the Commissioner may not be satisfied that a discussion of the legislation is a method or procedure for the purposes of s 37(2)(b)'. In response, APRA considers that the relevant document is not merely a discussion of the legislation. [redacted]

9. [redacted]

10. Disclosure of the document therefore would, or would be reasonably likely to, prejudice the effectiveness of a [redacted] method used by APRA, as a person with malicious intent could use the information to identify and exploit the weaknesses [redacted] Although some of the identified gaps in the SIS Act may be evident through studying the legislation, the relevant document draws particular attention to and explains what APRA considers to be weaknesses [redacted] This analysis by APRA provides an additional layer of information which could be misused by a person with malicious intent.

[redacted]

[redacted]

12. This would prejudice the effectiveness of APRA's methods, as APRA's [redacted] method for dealing with the identified gaps in the SIS Act would be rendered ineffective. [redacted]

[redacted]

13. To counteract this harm, the legislation must be amended to close the identified gaps. Amendments to the legislative framework for superannuation are a matter for the Government. APRA is not aware of any plans to action reforms to address these legislative gaps in the short or medium term. It is a lengthy process to amend the legislation and there is a risk that individuals or entities would exploit the identified gaps in the intervening period.

Public interest factors

14. APRA agrees with the Treasury's submission that there is a significant public interest in government agencies being able to undertake their responsibilities in the most efficient and effective manner possible. As raised in the Treasury submission, efficiency reduces the amount of resourcing needed for regulators to function optimally, which is in the public interest.

15. APRA further submits that there is significant public interest in APRA being able to take appropriate enforcement action in relation to breaches of the SIS Act. Disclosure of the relevant document creates a heightened risk that APRA would be unable to prove a breach of the legislation due to individuals or entities exploiting the identified gaps and weaknesses in the current legislation.

16. Finally, APRA submits that there is significant public interest in preventing fraud from occurring in the superannuation industry. APRA considers that public confidence in superannuation is essential to the delivery of sound retirement outcomes for all Australians. Disclosure of the relevant document may facilitate the commission of fraud by enabling persons to exploit the identified gaps and weaknesses.

17. APRA considers that these public interest factors against disclosure equally apply to the section 47E(d) exemption and the section 47C exemption which, in APRA's view, is applicable to the redacted material. APRA considers that any public interest in debating

the issues raised in the relevant document is outweighed by the significant public interest factors against disclosure set out in paragraphs 14 to 16 above.

18. If you would like to discuss any aspect of this submission please contact me on ben.carruthers@apra.gov.au or (02) 9210 3764.

Yours sincerely

Ben Carruthers
Senior Manager, Legal

Commissioner Kenneth Hayne suggested in the interim report that *'the regulatory regime is too complex as its been built around disclosure and "buyer beware". There are reams of detailed requirements about what the information institutions must provide their customers, but this hasn't ensured fair and valuable products and services. A simpler law would require institutions to deliver fair consumer outcomes - a shift to "seller beware" - providing greater accountability and allowing competition to work the way it is intended: to benefit consumers'*.[31]

Hayne's final report did not follow-up the "seller-beware". To point blame at 'buyer beware' for the type of misconduct laid bare by the Banking Royal Commission, could ne perceived as a corrupt financial system. The same misconduct and falling short of public expectations happened in the Trio case. Such misconduct requires more than suggesting 'buyer beware'.

The Banking Royal Commission forced APRA to take actions against superannuation and wealth management giant IOOF for failing to act in the best interests of superannuation members. The Trio director failed to act in the best interests of superannuation members, but APRA simply encouraged the Trio director to fix the problem.

The Royal Commission's findings have vindicated VOFF's concern about regulatory weaknesses and strengthened VOFF's fight for justice. In my case, the money stolen was an injury compensation awarded by the Supreme Court of NSW for spinal injuries sustained in a motor vehicle accident. The court ordered that I seek financial advice to set up an account so that the compensation be invested and provide a disability pension. I sought an independent legal opinion, to confirm if the requirement to place money into the financial system was law. I went to Kells Lawyers in Wollongong and Kells confirmed that the compensation money had to be invested in accordance with law. The only alternative is to become a ward of the state. Kells strongly discouraged this option.

There was no warning that superannuation can be easily robbed. No warning that the account holder won't be able to do anything about it. No warning of victimization by politicians. For example Mr Scott Morrison made his position clear about bank victims at the Australian British Chamber of Commerce saying, the victims are "*complicit*" for being too "*passive*" "*Too often we, the customers, have also become complicit in allowing the deck to be stacked against us", "You can guarantee it—the more passive a customer is, the worse deal they are going to get."*[32] Mr Bill Shorten the Minister for Superannuation, made his position clear when he said in regards to the Trio victims, *"I believe in caveat emptor; Latin for "let the buyer beware" meaning you need to take responsibility for your own decisions, if you buy something without doing your homework, well, you're an adult, that's your responsibility."*[33]

ASIC and APRA operate a lucrative business selling licences and registrations with no account for what they do or don't do. ASIC and APRA allow predatory fraudsters to operate inside banks or inside manage investment schemes. On the regulator's watch, the Trio fraudsters got their hands on other people's money.

Treasurer Josh Frydenberg launched a $30 million scheme of last resort, which will compensate complaints going back as far as January 1, 2008. Then Labor has outbid the Coalition by promising a vastly more generous compensation scheme for victims of financial service wrong doing, and also going back as far as January 1, 2008.

But victims of asset stripping deserve more than a compensation scheme of last resort. Consumers need to be empowered. Australia needs to consider introducing legislation like the 'Corporate Manslaughter Act' that can hold predatory fraudsters responsible for the harm they cause. How much harm has occurred due to financial scams over the last twenty years?

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[31] Gerard Brody This is the year we strike back against the banks 19 January 2019
https://www.smh.com.au/national/this-is-the-year-we-strike-back-against-the-banks-20190117-p50ryf.html
[32] Citizens Electoral Council of Australia Media Release Thursday, 30 August 2018 and
Malcolm Farr 'More choice, more competition, more power': Treasurer Scott Morrison on banking shake-up 3.08.2018
https://www.news.com.au/finance/business/banking/more-choice-more-competition-more-power-treasurer-scott-morrison-on-banking-shakeup/news-story/9caafdca9aa92df50c15ffd8490ba770
[33] The Assistant Treasurer Bill Shorten's article "Clean-up time for financial advisers" (Telegraph 6 May '11 p34)

The 'Corporate Manslaughter Act' is used in the United States, United Kingdom and Canada. Government and law enforcement have failed consumers time and time again. No one is stopping the crime or helping the victims. Its time for positive action and for something to happen that's in the best interest of consumers.

Consumers can further empower themselves by introducing of a type of 'Magnitsky Act' as this would open the way for a publicly available list of financial criminals. Even if the people are only suspects (with no convictions) they can be placed on the list of potential financial criminals. Currently ASIC hold the information about suspected criminals. Consumers have no way to access ASIC's information data. ASIC have been letting consumers down for over twenty years. At the moment consumers have no way to confirm Who's Who in the fraudster community. Consumers have no way to check if ASIC is indeed in touch with what's going on or asleep at the wheel. ASIC let the same criminals back into the Australian financial system for a second time, allowing them to steal the Trio assets. A 'Magnitsky Act' would remove the fraudsters hiding place, as mostly they hide within ASIC's database.

In 2002 the Guardian newspaper reported that the Financial Action Task Force, (the international money-laundering body) investigated a blacklist of al-Qaeda financial backers operating out of Liechtenstein bank accounts. The Jeeves Group, a major offshore finance firm with 40 employees in Liechtenstein and the Caribbean tax haven of St Vincent were questioned.[34] The Jeeves Group have a long history with Flader and Sutherland - the same two men who funded the purchase of the Trio Capital fund.

VOFF FOI tried to find out what ASIC knew about the Jeeves Group who allegedly support crooks, crime syndicates, tax evaders and terrorists and have a connection with Flader. ASIC replied saying no such document exists.[35]

The "million dollar question" should be:
How can a compensation scheme of last resort restore consumers to how they were before they were stripped of their assets?

Can ASIC stop failing consumers one day then promising to be different the next and get on with the closing down of asset stripping scams.

John Telford
Secretary VOFF Inc

[34] Conal Walsh Trouble in banking paradise as Uncle Sam's sheriffs ride in 27 October 2002 http://www.theguardian.com/business/2002/oct/27/theobserver.observerbusiness9
[35] VOFF FOI Number 269 to ASIC - finance terrorism October 18th 2014.