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- Treasury released (26 April 2013) a public review of the Trio collapse fraud, including an assessment of how the regulators carried out their responsibilities. It found that:
 - ASIC and APRA carried out their roles appropriately, under the regulatory framework;

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Pages 1-2, 4-9 and
10-34 are outside
the scope of the
request and have
not been provided.

**SENSITIVE
PROTECTED**

- Actions by APRA** 30 October 2013: enforceable undertaking against former Trio Director David Millhouse. He cannot act as a trustee of an APRA-regulated entity for 10 years
- A total of 13 former Trio directors have provided enforceable undertakings to APRA, effectively preventing them from holding senior roles in the APRA-regulated superannuation industry for a specified period of time
- Actions by ASIC** 29 October 2013: Tony Maher (formerly Paul Gresham) pleaded guilty to 20 criminal charges. 27 June 2014: Maher was sentenced to 25 months imprisonment. He will serve 15 months before being eligible for parole
- ASIC's enforcement action to date has resulted in more than 11 people having either been jailed, banned from providing financial services, disqualified from managing companies or having agreed to remove themselves from the financial services industry for more than 50 years

Trio Capital collapse: chronology of main regulatory events

Time	Regulatory action
2004	Licensing of Trio by ASIC as the responsible entity (RE) of 28 managed investment schemes
2005	At APRA's request, the Board of Trio Capital RSE is restructured to include a majority of independent directors.
2006	Licensing of Trio Capital by APRA as the registrable superannuation entity (RSE) of four superannuation funds
2006-2007	APRA conducts annual review of superannuation funds. Trio Capital acts upon APRA's recommendations to improve its internal governance.
2008	APRA seeks additional valuable information of the underlying assets of some Trio Capital funds as part of its annual review. In late 2008, APRA received some of the valuations previously requested during this period.
March 2009	APRA follows up on request for additional valuation information with the RSE.
June 2009	APRA conducts on-site visit to Trio Capital.
June 2009	ASIC undertakes a general review of hedge funds. Approximately 100 hedge funds (out of around 650) are short-listed for closer examination. ASF is one of the hedge funds short-listed.
September 2009	ASIC receives information from a market participant who has analysed ASF returns. ASIC issues an interim stop order on the product disclosure statement (PDS) for ASF.
October 2009	ASIC and APRA commence investigations into Trio Capital. ASIC issues an interim stop order on the PDS for ASF. APRA issues notices to freeze the assets of all four superannuation funds invested in Trio Capital.
December 2009	Trio effectively collapses when ASIC suspends the Australian Financial Services Licence held by Trio Capital Limited and APRA suspends Trio Capital Limited as the trustee of four superannuation funds and one pooled superannuation trust.
16 May 2012	Parliamentary Joint Committee (PJC) on Corporations and Financial Services release inquiry into the collapse of Trio Capital
26 April 2013	Former government release policy response to PJC report.

Treasury Review into the Trio Capital collapse and the regulatory framework (2013)

- Treasury released a public review of the Trio Capital collapse in April 2013, including an assessment of how the regulators carried out their responsibilities. It found that:
 - ASIC and APRA carried out their roles appropriately, under the regulatory framework;

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Pages 1-6, 8-14
and 25-38 are
outside the scope
of the request and
have not been
provided

ATTACHMENT C

INVESTIGATIONS (Source: ASIC and APRA)

C1. Overview of ASIC's Trio Capital enforcement action

- ASIC commenced an investigation in relation to Trio Capital on 2 October 2009.
- The Trio Capital investigation has and is examining suspected misconduct arising from the operation of two managed investment schemes for which Trio was the responsible entity, namely Astarra Strategic Fund (ASF) and the ARP Growth Fund.
- Having regard to the misconduct involving these funds and ASIC's regulatory responsibilities, ASIC's investigation focussed on individuals suspected of being directly involved in the misconduct; and gatekeepers who appeared not to meet their statutory obligations.
- These gatekeepers included the most recent directors of Trio Capital, the auditor of Trio Capital and the funds operated by Trio including ASF and the ARP Growth Fund, financial planners who recommended their clients invest in Trio Capital, where there was a suspicion that the advice breached the requirements of the *Corporations Act 2001*.
- ASIC investigated a number of financial planning firms and individual planners following a surveillance of those firms that placed their clients into Trio Capital financial products. This surveillance included a review of client files. Where suspected breaches of the law were identified the matter was referred to ASIC's enforcement teams.
- This work focusing on financial planning firms with a connection to Trio is consistent with the recommendation of the PJC Inquiry that ASIC investigate the advice given to self-managed superannuation fund investors in Trio.

C2. ASIC's investigation and investigations by other bodies

- In undertaking its enforcement work, ASIC worked closely with APRA. Regular meetings took place between ASIC and APRA as well as ongoing contact between staff working on respective investigations. Both ASIC and APRA sought to coordinate enforcement activities to minimise work duplication.
- An extensive amount of information and evidence relevant to ASIC's and APRA's respective investigations was shared. The information that was shared ranged from transcripts of examinations to working documents.
- Similarly, ASIC utilised information provided by the liquidators of Trio (PPB Advisory) during their investigation. As part of the liquidation process liquidators are required to provide reports to ASIC as well as creditors.
- ASIC provided significant funding from the Assetless Administration Fund to the liquidators to enable them to continue their investigation of the ARP Growth Fund. This funding included funding the conduct of a public examination of Tony Maher (also known as Paul Gresham). ASIC's decision to grant this funding was consistent with the PJC's recommendations.

C3. Investigative steps taken by ASIC

- ASIC's Trio Capital investigation has involved the following actions:
 - a) obtained, and assisted in the execution of, three search warrants issued under section 3E of the *Crimes Act 1914 (Cth)*, pursuant to which large volumes of evidence were copied or seized;
 - b) obtained, and renewed on numerous occasions, orders from the Supreme Court of NSW pursuant to section 1323 of the *Corporations Act 2001 (Cth)* preventing two directors of the investment manager of ASF from leaving the jurisdiction;
 - c) obtained documentary evidence pursuant to 167 notices issued under the *ASIC Act* for the production of "books" from a wide range of different individuals and entities;
 - d) conducted 48 separate voluntary interviews or compulsory examinations pursuant to section 19 of the *ASIC Act*;
 - e) obtained documents provided on a voluntary basis from individuals and entities on 58 separate occasions;
 - f) obtained documents pursuant to over 66 separate requests to other regulatory agencies for relevant assistance, information and evidence;
 - g) obtained (as outlined above), and searched or examined, millions of documents or records (in electronic or hard copy form);
 - h) sent staff overseas on five occasions to assist with gathering evidence.
- In the course of ASIC's investigation, ASIC also considered whether there were any opportunities to seek to recover or trace funds or pursue compensation claims on behalf of investors. ASIC did not identify any commercially viable claims.

C4. Further ASIC steps

- Although ASIC's investigations are substantially complete, some limited aspects of the investigations are still ongoing. In particular, ASIC has become aware of information that might assist them in their inquiries and are in the process of obtaining that information. The conduct of this investigation is confidential and so, at this stage, ASIC cannot provide further public information on these matters without the risk of undermining this work.

C5. ASIC's forward plan following the Trio Capital collapse

- In 2010 ASIC set out a forward plan to improve, where possible, the regulatory framework in light of the events that led to the collapse of Trio Capital.
- Following this forward plan, ASIC has:
 - increased the financial requirements that apply to managed investment schemes (refer: Consultation Paper 140 *Responsible entities: financial requirements* and Regulatory Guide 166 *Licensing: Financial Requirements*);
 - issued regulatory guidance to improve disclosures made by hedge funds (refer: Regulatory Guide 240 *Hedge Funds: improving disclosure*);

- strengthened guidance applying to research houses (refer: Regulatory Guide 79 *Research report providers: Improving the quality of investment research*); and
 - reviewed the compliance audit plans for a limited number of managed investment schemes.
- In addition ASIC also:
 - established a dedicated page on its website to assist Trio investors and also provided warnings on its MoneySmart website about limits to compensation for self-managed superannuation fund investors;
 - provided 2 public market updates regarding Trio Capital (refer: Media Release 12-116 *ASIC provides update on Trio and Media Release 13-294 Update on Trio investigation*);
 - reviewed and improved existing working relationships ASIC has with other regulators. For example, ASIC entered into a Memorandum of Understanding with the AFP and improved its liaison arrangements with APRA;
 - reviewed more generally financial advice provided to self-managed superannuation fund investors (refer: ASIC report 337 *SMSFs: Improving the quality of advice given to investors*);
 - reviewed and consulted on risk management arrangements that managed investment schemes have in place (refer Report 298 *Adequacy of risk management systems of responsible entities* and Consultation Paper 204 *Risk management systems of responsible entities*);
 - assisted the Corporations and Markets Advisory Committee ('CAMAC') in preparing a paper discussing potential legislative changes that could be made to the regulatory framework for managed investments (refer CAMAC March 2014 Discussion paper *Managed Investment Schemes*); and
 - issued a report on regulating complex products including hedge funds (refer Report 384 *Regulating Complex Products*).
 - The following table sets out the enforcement actions undertaken by ASIC. In summary ASIC's actions resulted in:

Outcome	Number
Enforceable undertakings	9
Bans (as a result of an enforceable undertaking or otherwise)	9
Convictions (resulting in jail)	2
Financial Services licenses cancelled/suspended	1

Table C1 – Trio Capital Investigation Outcomes

Date	Person and Role	Outcome	Review/Appeal	Sentence	Current status	Publication
24 June 2011	Kilara Financial Solutions Financial planning firm	Enforceable undertaking to address compliance issues	NA	No sanction	Matter concluded	ASIC Media Release 11-122AD <i>Kilara Financial Solutions enforceable undertaking (24 June 2011)</i>
1 July 2011	Rex Phillipott Director of Trio Capital Ltd	Enforceable undertaking not to provide financial services or to manage a corporation	NA	15 year ban	In force	ASIC's register of enforceable undertakings ASIC Media Release 11-133MR <i>Former directors of Trio Capital prevented from working in the financial services industry (4 July 2011)</i>
1 July 2011	Natasha Beck Director of Trio Capital Ltd	Enforceable undertaking not to provide financial services or to manage a corporation (except for 1 company)	NA	2 year ban	Matter concluded	ASIC's register of enforceable undertakings ASIC Media Release 11-133MR <i>Former directors of Trio Capital prevented from working in the financial services industry (4 July 2011)</i>
5 July 2011	Peter and Anne-Marie Seagrim Financial planners	Banned from providing financial services, with the AAT reducing the ban to 6 months	AAT – On 31 August 2012 the AAT reduced the ban from 3 years to 6 months	6 month ban	Matter concluded	ASIC's register of enforceable undertakings <i>Seagrim v ASIC [2014] AATA 817</i> ASIC Media Release 11-134MR <i>ASIC Acts: Seagrims licence suspended and directors banned (5 July 2011)</i> ASIC's register of banned and disqualified persons

10 August 2011	David Andrews Director of Trio Capital Limited	Enforceable undertaking not to provide financial services or to manage a corporation (except for 1 consultancy company)	NA	9 year ban	In force	ASIC Media Release 12-294MR <i>Update on Trio Investigation</i> (29 October 2013) ASIC's register of enforceable undertakings
12 August 2011	Shawn Richard CEO of investment manager of Astarra Strategic Fund	Convicted of 2 breaches of s1041G Corporations Act (dishonest conduct in carrying on a financial services business). One charge of breach of section 1041E (false or misleading statements) taken into account for sentencing purposes.	Supreme Court of NSW – on 12 August 2011, Richard was sentenced by the Court following his guilty plea	3 years 9 months jail with a minimum term of 2 years and 6 months	Richard was released from prison in January 2014	<i>R v Shawn Darrell Richard</i> [2011] NSWSC 866. ASIC Media Release 11-169MR <i>Former Astarra investment manager sentence to jail</i> (12 August 2011)
24 August 2011	Keith Finkelde Director of Trio Capital	Enforceable undertaking not to provide financial services or manage a corporation	NA	4 years ban	In force	ASIC Media Release 11-133MR <i>Remaining Trio former directors excluded from financial services industry for four years</i> (24 August 2011) ASIC's register of enforceable undertakings
24 August 2011	David O'Bryen Director of Trio Capital Ltd	Enforceable undertaking not to provide financial services or to manage a corporation (other than the trustee of his self- managed superannuation fund)	NA	4 year ban	In force	ASIC Media Release 11-133MR <i>Remaining Trio former directors excluded from financial services industry for four years</i> (24 August 2011) ASIC's register of enforceable undertakings

19 September 2011	Seagrims Financial planning firm	Suspend then cancel (at firm's request) the Australian Financial Services Licence	NA	Licence suspended then cancelled (at firm's request)	Matter concluded	ASIC Media Release 11-134AD ASIC Acts: <i>Seagrims licence suspended and directors banned</i> (5 July 2011) ASIC's register of Australian Financial Services Licence
25 November 2011	Ross Tarrant Financial planner	Banned from providing financial services	AAT – on 20 December the AAT upheld the ban imposed by the ASIC delegate. Full court of the Federal Court – on 6 February 2015 the Full Court dismissed Mr Tarrant's appeal of the AAT's decision.	7 year ban	In force	<i>Tarrant v ASIC</i> [2013] AATA 926 <i>Tarrant v ASIC</i> [2015] FCAFC 8 ASIC Media Release 15-017 <i>Federal Court dismisses appeal from banned Wollongong Financial planner</i> (10 February 2015) ASIC's register of banned and disqualified persons
1 February 2012	Tony Maher (Paul Gresham) Director of investment manager for ARP Growth Fund	Enforceable undertaking not to provide financial services or manage a corporation	NA	Permanent ban	In force	ASIC Media Release 12-15MR <i>Former ARP Growth Fund operator prevented from participating in financial services, managing corporations</i> (1 February 2012) ASIC's register of enforceable undertakings
10 February 2012	Timothy Frazer Auditor of Astarra Strategic Fund	Enforceable undertaking not to provide audit services	NA	3 year ban	In force	ASIC Media Release 12-22MR <i>Astarra Strategic Fund auditor prevented from auditing companies for three years</i> (10 February 2012) ASIC's register of enforceable undertakings

6 March 2013	Eugene Liu Chief investment strategist for the Astarra Strategic Fund and director of investment manager	Banned from providing financial services	AAT – on 31 October 2014 the AAT upheld the decision to permanently ban Liu from the financial services industry.	Permanent ban	In force	<i>Liu v ASIC</i> [2014] AATA 817 ASIC Media Release 13-041MR <i>Former Astarra investment manager permanently banned from financial services industry</i> (6 March 2013) ASIC's register of banned and disqualified persons ASIC Media Release 14-144MF <i>Former investment manager jailed</i> (27 June 2014)
27 June 2014	Tony Maher (Paul Gresham) Director of investment manager for ARP Growth Fund	Convicted of 20 breaches of section 1788A Crimes Act (repealed) (obtaining monies by false imprisonment)	District Court of New South Wales – on 27 June 2014 Maher was sentenced by the Court following his guilty plea.	25 months with 15 months to serve	Maher is currently serving his jail term	

C6. Overview of APRA's investigations and enforcement action

- Trio was both the trustee of an APRA regulated superannuation fund as well as the Responsible Entity of a managed investment scheme regulated by ASIC.
- APRA frontline supervisors had identified concerns with some aspects of the operations of Trio, particularly with regard to whether the trustee had received adequate valuations of its offshore hedge fund investments which were part of the Astarra Strategic Fund (the ASF). These concerns were being pursued as part of APRA's supervision activities.
- APRA commenced a formal investigation in October 2009. Shortly after commencing the investigation, APRA froze the assets of the Trio superannuation fund. In December 2009 APRA removed Trio as the trustee of the superannuation fund and appointed ACT Super as Acting Trustee.
- The investigation was a complex and resource intensive investigation which proceeded for nearly four years, during which time APRA:
 - issued approximately 80 notices to produce documents, receiving over one million documents in response; and
 - conducted examinations of 24 individuals.
- APRA also worked closely with ASIC and ACT Super and had access to material gathered by them.
- APRA focussed on the conduct of the individuals who were directors of Trio covering a six year period from November 2003 to December 2009 and closely examined six related party investments including the ASF, Ualan and Millhouse investments.
- As a result of the investigation APRA identified concerns that the Trio board had:
 - failed to conduct adequate due diligence;
 - made the investments on terms that were more favourable than had the investments been at arm's length; and
 - failed to adequately monitor the performance of the investments.
- As a result of APRA's investigation 13 former Trio directors gave Enforceable Undertakings to APRA to remain out of the APRA-regulated superannuation industry for periods ranging from two to 15 years, with one former director being banned indefinitely (see **Table C2**).

C7. Changes to the APRA regulated superannuation landscape

- Since Trio's collapse there have been a number of significant changes to the APRA regulated superannuation landscape, most importantly:
 - better protections introduced as part of the Stronger Super Reforms, such as introduction of Prudential Standards making powers for APRA as well as enhanced reporting requirements. Since the passage of these legislative changes, APRA has released new prudential standards which directly address issues identified related to the collapse of Trio, namely:
 - : SPS 521 Conflicts of Interest

- : SPS 220 Risk Management
 - : SPS 530 Investment Governance
 - : SPS 231 Outsourcing
- release in June 2015 of Prudential Practice Guide SPG 223 Fraud Risk Management which includes guidance on how to mitigate fraud related investment risks in superannuation.

Table C2 - Action taken by APRA: list of enforceable undertakings accepted by APRA

Name	ARPA acceptance date	Expiry date of undertaking
Millhouse, David Guy	29 October 2013	28 October 2023
Groeneveld, Kurt William	17 October 2013	16 April 2017
Harte, John	4 July 2013	3 July 2017
Anderson, Cameron Patrick	4 July 2013	3 July 2025
Anderson, Michael James	4 July 2013	3 July 2017
Macolino, Lorenzo Patrick	28 June 2013	27 June 2021
Hallinan, Terrence	27 June 2013	26 June 2021
Godfrey, John Alan	5 March 2012	No expiry date
O'Bryen, David	27 October 2011	26 April 2017
Finkelde, Keith Rex	12 September 2011	11 September 2017
Phillpott, Rex John	6 September 2011	5 September 2026
Andrews, David Ronald	6 September 2011	5 September 2021
Beck, Natasha	1 July 2011	30 June 2015

- APRA's website has further information including a copy of each undertaking and can be accessed at: <http://www.apra.gov.au/CrossIndustry/Pages/EnforceableUndertakings.aspx>.

ATTACHMENT – ENFORCEMENT ACTION TAKEN BY REGULATORS

Actions taken by ASIC and outcomes following investigation into Trio Capital

The following table sets out the enforcement actions undertaken by ASIC. In summary ASIC's actions have resulted in:

Enforceable undertakings	9
Bans (as a result of an enforceable undertaking or otherwise)	9
Convictions (resulting in jail)	2
Financial Services licenses cancelled/suspended	1
Overseas enforcement action	ongoing

Date	Person and Role	Outcome	Review/ Appeal	Sentence	Current Status	Publication
24 June 2011	Kilara Financial Solutions Financial planning firm	Enforceable Undertaking to address compliance issues	NA	No sanction	Matter concluded	ASIC Media Release 11-122AD <i>Kilara Financial Solutions enforceable undertaking</i> (24 June 2011)
						ASIC's Register of Enforceable

1 July 2011	Rex Phillipott Director of Trio Capital Ltd	Enforceable Undertaking not to provide financial services or to manage a corporation	NA	15 years ban	In force	ASIC Media Release 11-133MR <i>Former directors of Trio Capital prevented from working in the financial services industry</i> (4 July 2011)	ASIC's Register of Enforceable Undertakings
1 July 2011	Natasha Beck Director of Trio Capital Ltd	Enforceable Undertaking not to provide financial services or to manage a corporation (except for 1 company)	NA	2 years ban	Matter concluded	ASIC Media Release 11-133MR <i>Former directors of Trio Capital prevented from working in the financial services industry</i> (4 July 2011)	ASIC's Register of Enforceable Undertakings
5 July 2011	Peter and Anne- Marie Seagrim Financial planners	Banned from providing financial services, with the AAT reducing the ban to 6 months	AAT – On 31 August 2012 the AAT reduced the ban from 3 years to 6	6 month ban	Matter concluded	Seagrim v Australian Securities and Investments Commission [2014] AATA 817	ASIC Media Release 11-134MR

10 August 2011	David Andrews Director of Trio Capital Ltd	Enforceable Undertaking not to provide financial services or to manage a corporation (except for 1 consultancy company)	NA	9 years ban	In force	ASIC Media Release 12-294MR <i>Update on Trio Investigation</i> (29 October 2013)	ASIC's Register of Banned and Disqualified Persons	ASIC's Register of Enforceable Undertakings	<i>ASIC Acts: Seagrims licence suspended and directors banned</i> (5 July 2011)
12 August 2011	Shawn Richard CEO of investment manager of Astarra Strategic Fund	Convicted of 2 breaches of s1041G Corporations Act (dishonest conduct in carrying on a financial services business). One charge of breach of section 1041E (false or misleading statements) taken into account for sentencing purposes.	Supreme Court of New South Wales – on 12 August 2011, Richard was sentenced by the Court following his guilty plea.	3 years and 9 months jail with a minimum term of 2 years and 6 months	Richard was released from prison in January 2014	R v Shawn Darrell Richard [2011] NSWSC 866	ASIC Media Release 11-169MR <i>Former Astarra investment manager sentenced to jail</i> (12 August 2011)		
24 August 2011	Keith Finkelde Director of Trio	Enforceable Undertaking not to provide financial	NA	4 years ban	In force	ASIC Media Release 11-133MR <i>Remaining Trio former directors</i>			

	Capital Ltd	services or to manage a corporation				<p><i>excluded from financial services industry for four years (24 August 2011)</i></p> <p>ASIC's Register of Enforceable Undertakings</p>
24 August 2011	David O'Bryen Director of Trio Capital Ltd	Enforceable Undertaking not to provide financial services or to manage a corporation (other than the trustee of his self-managed superannuation fund)	NA	4 years ban	In force	<p>ASIC Media Release 11-133MR <i>Remaining Trio former directors excluded from financial services industry for four years (24 August 2011)</i></p> <p>ASIC's Register of Enforceable Undertakings</p>
19 September 2011	Seagrims Financial planning firm	Suspend then cancel (at the firm's request) the Australian Financial Services Licence	NA	Licence suspended then cancelled (at firm's request)	Matter concluded	<p>ASIC Media Release 11-134AD <i>ASIC Acts: Seagrims licence suspended and directors banned (5 July 2011)</i></p> <p>ASIC's Register of Australian Financial Services Licence</p>
25 November	Ross Tarrant	Banned from providing financial services	AAT – On 20 December 2013 the AAT upheld	7 years ban	In force	Tarrant v Australian Securities and Investments Commission

2011	Financial planner		the ban imposed by the ASIC delegate. Full Court of the Federal Court – On 6 February 2015 the Full Court dismissed Mr Tarrant's appeal of the AAT's decision.	Permanent ban		[2013] AATA 926 Tarrant v Australian Securities and Investments Commission [2015] FCAFC 8 ASIC Media Release 15-017 <i>Federal Court dismisses appeal from banned Wollongong Financial planner</i> (10 February 2015) ASIC's Register of Banned and Disqualified Persons
1 February 2012	Tony Maher (Paul Gresham) Director of investment manager for ARP Growth Fund	Enforceable Undertaking not to provide financial services or manage a corporation	NA	Permanent ban	In force	ASIC Media Release 12-15MR <i>Former ARP Growth Fund operator prevented from participating in financial services, managing corporations</i> (1 February 2012) ASIC's Register of Enforceable Undertakings
10 February 2012	Timothy Frazer Auditor of Astarra Strategic Fund	Enforceable Undertaking not to provide audit services	NA	3 years	In force	ASIC Media Release 12-22 MR <i>Astarra Strategic Fund auditor prevented from auditing companies for three years</i> (10 February 2012) ASIC's Register of Enforceable

6 March 2013	Eugene Liu Chief Investment Strategist for the Astarra Strategic Fund and director of investment manager	Banned from providing financial services	AAT – On 31 October 2014 the AAT upheld the decision to permanently ban Liu from the financial services industry.	Permanent ban	In force	Undertakings Liu v Australian Securities and Investments Commission [2014] AATA 817 ASIC Media Release 13-041 MR <i>Former Astarra investment manager permanently banned from financial services industry (6 March 2013)</i> ASIC's Register of Banned and Disqualified Persons
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Enforcement action taken by **APRA** is discussed over next page.

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Action taken by APRA: list of enforceable undertakings accepted by APRA

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Andrews, David Ronald	6 September 2011	5 September 2021
Beck, Natasha	1 July 2011	30 June 2015

APRA's website has further information including a copy of each undertaking and can be accessed at:
<http://www.apra.gov.au/CrossIndustry/Pages/EnforceableUndertakings.aspx>.

What action has been undertaken by the regulators, ASIC and APRA?

- ASIC and APRA have undertaken extensive work to investigate Trio Capital including suspected misconduct involving Astarra Strategic Fund (ASF) and the ARP Growth Fund. Arising from that work a number of enforcement outcomes have been achieved including the conviction and jailing of Shawn Richard, the investment manager of ASF and Tony Maher (formerly known as Paul Gresham) the investment manager of ARP Growth Fund.
- As a result of APRA's investigation, a total of 13 former Trio directors provided an enforceable undertaking to APRA, which effectively removes these individuals from holding senior roles in the superannuation industry for a specified period of time.
- ASIC's work has resulted in a total of nine individuals associated with Trio Capital providing an enforceable undertaking to ASIC, removing them from the industry for varying periods of time. ASIC has also banned nine individuals from the financial services industry and cancelled one financial services licence.

Did the regulators fail in their duties?

- On 26 April 2013 Treasury released its *Review of the Trio Capital Fraud and Assessment of the Regulatory Framework*. The Review independently considered the events behind the collapse of Trio Capital, the responses of the Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA) and aspects of the regulatory framework.
- The Government is satisfied that both APRA and ASIC carried out their roles and responsibilities appropriately in relation to the collapse of Trio Capital under the regulation framework. I accept the Review's finding that once sufficient information was available and formal investigations commenced, APRA and ASIC acted quickly.

ATTACHMENT – ENFORCEMENT ACTION TAKEN BY REGULATORS

Actions taken by ASIC and outcomes following investigation into Trio Capital

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1 July 2011	Rex Phillpott Director of Trio Capital Ltd	Enforceable Undertaking not to provide financial services or to manage a corporation	NA	15 years ban	In force	ASIC Media Release 11-133MR <i>Former directors of Trio Capital prevented from working in the financial services industry</i> (4 July 2011) ASIC's Register of Enforceable Undertakings

1 July 2011	Natasha Beck Director of Trio Capital Ltd	Enforceable Undertaking not to provide financial services or to manage a corporation (except for 1 company)	NA	2 years ban	Matter concluded	ASIC Media Release 11-133MR <i>Former directors of Trio Capital prevented from working in the financial services industry</i> (4 July 2011) ASIC's Register of Enforceable Undertakings
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	Astarra Strategic Fund	conduct in carrying on a financial services business). One charge of breach of section 1041E (false or misleading statements) taken into account for sentencing purposes.	on 12 August 2011, Richard was sentenced by the Court following his guilty plea.	term of 2 years and 6 months	January 2014	ASIC Media Release 11-169MR <i>Former Astarra investment manager sentence to jail</i> (12 August 2011)
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24 August 2011	David O'Bryen Director of Trio Capital Ltd	Enforceable Undertaking not to provide financial services or to manage a corporation (other than the trustee of his self-managed superannuation fund)	NA	4 years ban	In force	ASIC Media Release 11-133MR <i>Remaining Trio former directors excluded from financial services industry for four years</i> (24 August 2011) ASIC's Register of Enforceable Undertakings
19 September 2011	Seagrims Financial planning firm	Suspend then cancel (at the firm's request) the Australian	NA	Licence suspended then cancelled	Matter concluded	ASIC Media Release 11-134AD <i>ASIC Acts: Seagrims licence suspended and directors</i>

		Financial Services Licence		(at firm's request)		<i>banned</i> (5 July 2011) ASIC's Register of Australian Financial Services Licence
25 November 2011	Ross Tarrant Financial planner	Banned from providing financial services	AAT – On 20 December 2013 the AAT upheld the ban imposed by the ASIC delegate. Full Court of the Federal Court – On 6 February 2015 the Full Court dismissed Mr Tarrant's appeal of the AAT's decision.	7 years ban	In force	Tarrant v Australian Securities and Investments Commission [2013] AATA 926 Tarrant v Australian Securities and Investments Commission [2015] FCAFC 8 ASIC Media Release 15-017 <i>Federal Court dismisses appeal from banned Wollongong Financial planner</i> (10 February 2015) ASIC's Register of Banned and Disqualified Persons
1 February 2012	Tony Maher (Paul Gresham) Director of investment manager for ARP Growth Fund	Enforceable Undertaking not to provide financial services or manage a corporation	NA	Permanent ban	In force	ASIC Media Release 12-15MR <i>Former ARP Growth Fund operator prevented from participating in financial services, managing corporations</i> (1 February 2012) ASIC's Register of Enforceable Undertakings
10 February	Timothy Frazer	Enforceable Undertaking	NA	3 years	In force	ASIC Media Release 12-22 MR <i>Astarra</i>

2012	Auditor of Astarra Strategic Fund	not to provide audit services				<p><i>Strategic Fund auditor prevented from auditing companies for three years (10 February 2012)</i></p> <p>ASIC's Register of Enforceable Undertakings</p>
6 March 2013	Eugene Liu Chief Investment Strategist for the Astarra Strategic Fund and director of investment manager	Banned from providing financial services	AAT – On 31 October 2014 the AAT upheld the decision to permanently ban Liu from the financial services industry.	Permanent ban	In force	<p>Liu v Australian Securities and Investments Commission [2014] AATA 817</p> <p>ASIC Media Release 13-041 MR <i>Former Astarra investment manager permanently banned from financial services industry</i> (6 March 2013)</p> <p>ASIC's Register of Banned and Disqualified Persons</p>
27 June 2014	Tony Maher (Paul Gresham) Director of investment manager for ARP Growth Fund	Convicted of 20 breaches of section 178BA Crimes Act (repealed) (obtaining monies by false statement)	District Court of New South Wales – On 27 June 2014 Maher was sentenced by the Court following his guilty plea.	25 months with 15 months to serve	Maher is currently serving his jail term	ASIC Media Release 14-144 MF <i>Former investment manager jailed</i> (27 June 2014)

Action taken by APRA: list enforceable undertakings accepted by APRA

Name	ARPA acceptance date	Expiry date of undertaking
Millhouse, David Guy	29 October 2013	28 October 2023
Groeneveld, Kurt William	17 October 2013	16 April 2017
Harte, John	4 July 2013	3 July 2017
Anderson, Cameron Patrick	4 July 2013	3 July 2025
Anderson, Michael James	4 July 2013	3 July 2017
Macolino, Lorenzo Patrick	28 June 2013	27 June 2021
Hallinan, Terrence	27 June 2013	26 June 2021
Godfrey, John Alan	5 March 2012	No expiry date
O'Bryen, David	27 October 2011	26 April 2017
Finkelde, Keith Rex	12 September 2011	11 September 2017
Phillpott, Rex John	6 September 2011	5 September 2026
Andrews, David Ronald	6 September 2011	5 September 2021
Beck, Natasha	1 July 2011	30 June 2015

APRA's website has further information including a copy of each undertaking and can be accessed at: <http://www.apra.gov.au/CrossIndustry/Pages/EnforceableUndertakings.aspx>.