

Submission to the
Australia's Financial Regulatory Framework and Home Ownership Inquiry.
Email: economics.sen@aph.gov.au
27 September 2024

Dear Senate Economics References Committee,

I was fortunate not to have lost my home like many other victims of the same Trio Capital fraud. But it's glaringly obvious there are unanswered questions surrounding the Trio fraud investigation. For example, the Australian Transaction Reports and Analysis Centre (AUSTRAC) did not appear before the Parliamentary Joint Committee that held an inquiry into the Trio fraud. AUSTRAC did not even present a submission, although it held vital documents, evidence of where Trio's money was being sent.

No one properly investigated whether Trio's custodians, ANZ Custodian Services and the National Australia Trustees Ltd, fulfilled their duties and obligations under the AML/CTF Act - Anti-Money Laundering and counter terrorism financing regulation. During the Trio investigation (2010 to 2012), the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulations Authority (APRA) and AUSTRAC did not question the single "in-species" transfer on 24th June 2009 of unites held by Exploration Fund into Astarra Strategic Fund for the value of approximately \$50m AUD.

As someone who lost his savings in Trio I have no way of knowing whether the custodians met their obligations and responsibilities under anti-money laundering laws. The Parliamentary Joint Committee Inquiry into the Trio fraud (PJC) was exceedingly kind to the custodians, saying in the May 2012 Report, *'The custodian (in Trio's case, the National Australia Bank) does very little 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.'*¹ Also, *'... the custodian does not have the expertise to question underlying values of either domestic or offshore funds.'*²

When the Banking Royal Commission released its Interim Report on 12 October 2018, ANZ Chief Executive Officer Mr Shayne Elliott invited disgruntled bank customers to email him directly with their concerns.³ On 16 October 2018, I wrote and asked whether the custodian for Trio was exempt from AML-CTF law?

¹ PJC Report May 2012 Page xxiii and page 132

² Ibid.

³ 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>

Mr Shayne Elliott wrote,

"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."

The reply from the ANZ bank confirmed its obligations, whereas the PJC Report presents a different story. The PJC Report claims,

"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".⁴

The PJC also added,

"The committee did not receive a submission, or take direct evidence from the Australian Reports and Analysis Centre (AUSTRAC). It does appear, however, that AUSTRAC was not given any significant information from the various gatekeepers alerting it to suspicious activity in Trio Capital. In this context, questions must be raised as to whether the gatekeepers— particularly the financial advisers and custodians—conducted due diligence when taking on prospective clients."⁵

ASIC was in control of the Trio investigation, but there's no indication ASIC checked for potential breaches of AML-CTF law by Trio's custodians. There seemed to be little interest by the Australian government that people were stripped of their family home.

John Telford

Email" johntelford2021@gmail.com

⁴ PJC Report May 2012 Page 132

⁵ PJC Report May 2012 Page 145