

## **DRAFT TERMS OF REFERENCE – REVIEW OF REGULATORS ACTIONS IN INVESTIGATING TRIO CAPITAL**

### ***Background***

The PJC report into the collapse of Trio raised concerns about the actions of the regulators, in particular:

- the length of time it took regulators to detect the fraud;
- that regulators missed key events;
- the quality of prudential reviews;
- APRA's apparent excessive regulatory forbearance; and
- the lack of communication between regulators.

### ***Aim of the review***

The purpose of the review is ensure that APRA and ASIC acted legally and with propriety and complied with their responsibilities under the legislation.

In conducting the review, APRA and ASIC will make available relevant documents and will make available relevant staff involved in the Trio investigations.

The review will investigate whether there are issues with the administration of reviews, including prudential and risk based reviews [and make findings/any necessary recommendations to address any identified shortcomings. This should include the identification of improved practices and processes.]

### ***Scope***

To examine APRA and ASIC's conduct in undertaking their regulatory responsibilities with respect to the Trio investigation. In particular, the review should examine the administrative responsibilities of the regulators in accordance with their respective enabling Acts.

The review should focus on:

- the conduct of the reviews (including prudential and risk based reviews) and whether they were adequate;
- whether the process of reviews achieved their intended purpose;
- whether the reviews were conducted in a timely manner;
- existing information sharing arrangements between regulators;
- [whether the regulators acted reasonably and appropriately and within the expectations of investors and superannuation fund members.]

The review should consider the above issues in the context of the material available to the regulators at the time they were investigating Trio.

The review would not be expected to examine policy matters or make recommendations in relation to the regulatory framework, but rather focus on administrative practices and processes.

### ***Timing***

To enable the Government to respond by the end of the year, the report should be completed within [two] months.

### ***Reporting***

The report should be provided to APRA and ASIC. [The contents of the report may be made public and may be provided to the Government.]