

22 May 2012

Trio enquiry fails to answer two investor protection questions

The parliamentary joint committee report on Trio Capital and subsequent public analysis of the findings has failed to answer two important investor protection questions, says Harvey Kalman, Equity Trustees' head of corporate fiduciary & financial service.

"While the report shared around the blame pretty evenly for the collapse and lack of prevention, there was little said about how to improve investor protection.

"More questions could have been raised about the role of the internal Responsible Entity (RE), and two questions in particular.

"The first is 'Would an independent Responsible Entity have been more likely to prevent the fraud and loss of investor funds?'

"The second question should have been 'Even if Trio still collapsed, would there have been more chance for all investors, including SMSF investors, to have recovered their funds if there was an external RE?'

"To me, the answer to both questions is 'Absolutely'."

Mr Kalman said that the Trio fiasco had one thing in common with all the other collective investment collapses since 2007 – an in-house Responsible Entity.

"Clearly the bar needs to be set much higher for smaller funds, particularly for start-ups and whenever control of a fund changes to another in-house Responsible Entity.

"It is simply wrong that a couple of guys from Wagga apparently fronting a mystery figure based overseas can set up shop and take investment funds from Australians with no involvement of an independent entity with a clear real time role, including looking over the shoulder of asset managers to see where the money is going.

"Another benefit of an independent responsible entity there is always someone left standing with adequate levels of insurance and funding if a fund manager does collapse.

"Certainly ASIC is looking at ensuring that the people behind funds and in-house responsible entities are better funded and of good reputation, but this will never be sufficient to protect investors.

"As we have seen from the Trio collapse, the problem with such criteria on start-up is that there is apparently little the regulator can do as long as managers and responsible entities appear to comply with the regulatory standards that have been set.

"An external responsible entity is able to take a more preventative role, query transactions, and bring matters to the attention of regulators in real time, not well after the event," Mr Kalman said.

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