



**ASIC**  
Australian Securities &  
Investments Commission

**Australian Securities  
and Investments Commission**

Office address (inc courier deliveries):  
Level 5, 100 Market Street,  
Sydney NSW 2000

Mail address for Sydney office:  
GPO Box 9827,  
Brisbane QLD 4001

Tel: +61 1300 935 075  
Fax: +61 1300 729 000

[www.asic.gov.au](http://www.asic.gov.au)

Discretionary Payments Team  
Risk & Claims Branch  
Department of Finance

25 November 2020

Dear Sir/Madam

**ACT OF GRACE PAYMENT APPLICATIONS SUBMITTED TO APRA BY s22(1)(a)(ii)**

I refer to a letter from s22(1)(a)(ii) dated October 2020 (**Letter**) responding to submissions from APRA with respect to act of grace applications submitted by s22(1)(a)(ii) on behalf of investors in schemes managed by Trio Capital Limited (**Trio Capital**).

ASIC notes an additional point raised in the Letter that the s22(1)(a)(ii) believes should qualify as 'special circumstances' for the purposes of s65(1) of the *Public Governance, Performance and Accountability Act 2013* (Cth) (**PGPA Act**). Trio Capital, as the responsible entity of the Astarra Strategic Fund (**ASF**), held an Australian financial services licence (**AFSL**). s22(1)(a)(ii) asserts that in 2009, when Trio Capital collapsed, there was no legislative requirement for Trio Capital, as an AFSL holder, to be a member of an external dispute resolution (**EDR**) scheme.

ASIC understands that Trio Capital was a member of the Financial Industry Complaints Service from early 2004 until its membership was transferred to the Financial Ombudsman Service (**FOS**) in July 2008 as part of a scheme merger. Trio Capital was a member of FOS until June 2010.

ASIC notes that Trio Capital's membership of FOS in 2009 was in accordance with its obligation as an AFSL holder under ss 912A(1)(g) and 912(2)(b), as these provisions existed in 2009.

ASIC makes no further comment about the concerns raised by the s22(1)(a)(ii) in the Letter.

Yours faithfully,

**Australian Securities and Investments Commission**