

# ACT Super Management Pty Limited

ABN: 29 073 947 690 002

AFSL No: 245387

RSE Licence No: L0003131

Level 31, 60 Margaret Street  
Sydney NSW 2000  
Australia

GPO Box 9986  
Sydney NSW 2000  
Telephone: (02) 9338 2600  
Facsimile: (02) 9338 2699

---

4 June 2010

Dear Member

**Astarra Superannuation Plan ABN 43 724 394 795**

**Astarra Personal Pension Plan ABN 74 351 127 106**

**My Retirement Plan ABN 23 732 008 457**

**The Employers Federation of NSW Superannuation Plan ABN 31 061 350 115**

**Astarra Pooled Superannuation Trust ABN 71 340 939 814**

**(collectively "the Funds")**

## 1. Introduction

As members will be aware, ACT Super Management Pty Ltd ("ACT Super") was appointed as the Acting Trustee of the Funds by APRA on 16 December 2009 pursuant to section 134(1) of the Superannuation Industry (Supervision) act 1993 ("the SIS Act").

On the same date, Neil Singleton, Steve Parbery and Nicholas Martin of PPB were appointed Voluntary Administrators of Trio Capital Limited ("Trio"). Trio was the former trustee of the Funds. Trio remains as the Responsible Entity ("RE") of the managed investment schemes ("the schemes") into which the vast majority of the money received from the Funds was invested.

I refer to the previous communications and Significant Event Notices issued by ACT Super.

This notice provides an update to members on the status of the activities of the Acting Trusteeships.

## 2. Status of the Funds

One of the key responsibilities of ACT Super as an Acting Trustee of the Funds is to transition the assets of the Funds and their members to an alternate trustee(s). In accordance with this obligation, ACT Super has considered the following options for the Funds and their members:

1. identifying a suitable replacement trustee that will replace ACT Super as trustee of the Funds; or
2. wind up the Funds after transferring out the assets and the members of the Funds through either:
  - a. a successor fund transfer; or
  - b. allowing members to roll-out individually to a new superannuation fund of their choice.

Due to the impaired nature of the Funds, a replacement trustee for the Funds will not be sought. ACT Super presently believes that it is likely to be in members' best interests to pursue option 2(a), being a successor fund transfer. A successor fund transfer is a process whereby all members and assets of the Funds would be transferred to another superannuation fund that provides members with equivalent rights in respect of benefits.

The factors we have considered in forming our view that a successor fund transfer is likely to be in the best interests of members include:

## ***ACT Super Management Pty Limited***

---

- + the requirement that the successor fund provide members with equivalent rights to those they were entitled to under the Funds;
- + desire to resolve the current situation and deal with the Funds;
- + taxation issues and the ability to transfer tax losses to a new fund as part of a successor fund transfer;
- + the ability to maintain insurance arrangements currently in place for members;
- + the possibility that assets may be able to be transferred to a new fund in-specie without the need for all assets to be sold and converted into cash;
- + member fund choice;
- + costs of pursuing each option;
- + time to achieve each option;
- + unit pricing considerations;
- + dealer groups; and
- + administrative issues.

ACT Super has commenced steps to run a tender process to identify an appropriate successor fund. We have appointed Rice Warner actuaries to assist in this regard. Rice Warner has recently commenced soundings of the market and initial responses have been positive.

It will only be once the tenders have been received that we will be able to make a final assessment whether the successor fund option is in the best interests of members. If not, it is likely that we would pursue the individual roll-over of members' benefits to superannuation funds of their choice.

As part of this process, it is important for ACT Super to resolve the position of the Responsible Entity ("RE") of the unimpaired schemes. This is discussed in section 3 below.

There is significant preparatory work that is required to bring the Funds up to a standard where a successor fund transfer could be pursued. The financial and compliance tasks currently being undertaken include:

- + lodgement of the tax returns for the Funds for the year ended 30 June 2009;
- + finalisation of the 30 June 2009 financial statements for the Funds;
- + audit of the 30 June 2009 financial statements of the Funds. In this respect, we have appointed Ernst & Young to conduct the audit replacing the former auditor, WHK;
- + obtaining taxation advice in respect of the treatment of key issues by the former trustees (including deferred tax assets);
- + the appointment of Deloitte as a unit pricing consultant to review the historic and current unit pricing practices and to assist us to obtain Court sanction to a unit pricing methodology as discussed in our last update to members. This methodology will allow for interim unit pricing to be undertaken that values the problematic assets at nil with the ability for the unit prices to be adjusted to the extent that returns are ultimately received from the problematic assets; and
- + conducting the successor fund transfer tender process.

It is important to note that the above activities (tax, financial statements, audit and unit pricing) must all be done regardless of whether a successor fund transfer or roll-over of individual

# **ACT Super Management Pty Limited**

---

member balances is pursued. Accordingly, ACT Super will further develop its successor fund transfer approach during the period in which these activities are finalised.

We expect to commence the tender process within the next few months once the above compliance tasks have been completed.

We note that the Employers Federation of NSW Superannuation Plan is a defined benefit fund and will need to be treated in isolation to the other Funds. ACT Super is currently liaising with the plan's actuary and the employer of the plan to understand the financial position of the plan. Once this is established (following resolution of the problematic assets), ACT Super will work with the employer and actuary to resolve the current situation.

### **3. Responsible Entity ("RE") of the unimpaired schemes**

As you are aware, the Funds have invested into 13 Managed Investment Schemes (collectively "the schemes") where Trio Capital Limited (Administrators Appointed) ("Trio") is the Responsible Entity ("RE"). 10 of these schemes are unimpaired, or largely unimpaired, by the identified problematic assets (being the Astarra Strategic Fund ("ASF"), Millhouse private equity investment and Ualan property investment). The status of the problematic assets is dealt with in sections 5 to 7 of this notice.

Since January 2010, the Acting Trustee has expressed the view that it is inappropriate for Trio, as a company in administration, to continue to act as the RE of the schemes where the Funds invested. Accordingly, ACT Super has been working with PPB, as the administrators of Trio, to identify a new RE that might replace Trio in respect of the 10 schemes.

In addition, our advice is that a transfer of assets in-specie by way of a successor fund transfer may be achievable if the underlying assets are administered by a strong and reputable responsible entity. A transfer of assets in-specie, rather than transferring all assets into cash, would have advantages with regard to the cost and time to effect a successor fund transfer.

ACT Super has made significant progress since the date of our last update report in respect of this issue and is currently in the process of convening meetings of unitholders to have Trio replaced by The Trust Company as RE of these schemes. We expect that the unitholders meetings will be held within the next month. ACT Super is liaising with the Administrators in relation to the conduct of these meetings.

### **4. Schemes with significant exposure to problematic assets**

As you are aware, there are three schemes into which the Funds invested that have significant exposure to the problematic assets. These schemes are:

- + Astarra Wholesale Portfolio Service ("AWPS");
- + Astarra Overseas Equities Pool ("AOEP"); and
- + Astarra Strategic Fund ("ASF").

The Court granted winding up orders in respect of the above three schemes on 19 March 2010 and meetings of unitholders for the AWPS and AOEP occurred on 17 May 2010. The meeting of unitholders for the ASF is expected to be held in the coming months.

ACT Super continues to liaise with the Administrators in relation to the winding up of these schemes. The returns to the Funds from these schemes will be determined by the resolution of the problematic assets.

# **ACT Super Management Pty Limited**

---

## **5. ASF and application for a grant of financial assistance**

ACT Super continues to liaise with the Administrators in relation to the winding up of ASF. At the date of this notice, there have been no developments that are likely to lead to the recovery of significant monies from ASF.

Separately, ACT Super is in the process of preparing an application for a grant of financial assistance to the Australian Government under Part 23 of the SIS Act. Under the relevant sections of the SIS Act, trustees of regulated superannuation entities can make an application for a grant of financial assistance where a loss is suffered as a result of fraudulent conduct or theft and that loss caused substantial diminution to a fund leading to difficulties in the payment of benefits.

In support of such an application, we have been undertaking a significant investigation into the losses that have been incurred by the Funds to determine if there is sufficient evidence to demonstrate that the losses were the result of fraudulent conduct or theft. We have been liaising closely with APRA in the conduct of this investigation.

We expect to make the application within the next two months. It is not possible for ACT Super to predict the outcome of the application and the timing and quantum of any financial assistance as that is at the discretion of the Minister.

## **6. Millhouse**

Members may be aware that some of the international equities or diversified investment options of the Astarra Superannuation Plan, Astarra Pension Plan and the Astarra Pooled Superannuation Trust have exposure to a number of private companies in Germany, Singapore and the US that were invested through two Millhouse unit trusts. These superannuation entities collectively own approximately 60% of the units in each of the unit trusts (both direct and also through various of the Trio schemes). These assets were carried in the books of the former trustee for an amount in excess of \$20 million. The assets of the unit trusts include biotech and IT development companies that are speculative in nature and ordinarily would not be realised for a number of years (if ever) until after intellectual property was successfully developed and the companies demonstrated profit generating capacity.

There are a number of issues with these investments as follows:

- + The investment manager for each of the two investments trusts, Millhouse IAG Limited was placed into Voluntary Administration in May 2010;
- + As a result of Board resignations, currently one trustee of the trusts has only one director and the other trustee has no directors;
- + The trustee companies have no cash and are likely to have a number of claims against them for expenditure incurred on behalf of the unit trusts. However, the quantum of these claims is uncertain; and
- + There is likely to be the requirement for funds to be expended to get the companies, into which the trusts have invested, to a stage where the superannuation entities' interests in these companies can be sold in the market.

Following the appointment of a Voluntary Administrator to Millhouse IAG Limited, ACT Super has been liaising closely with the following:

- + representatives of the other unitholders in the schemes;
- + David Millhouse and his associates;
- + Richard Telfer, the former Trio CFO and director of one of the Trustees; and
- + the Voluntary Administrator of Millhouse IAG.

# **ACT Super Management Pty Limited**

---

The representatives of the other unitholders have confirmed that they share our desire to have the assets of the two unit trusts realised in an orderly manner.

Given the unsatisfactory position of the trustees of the two unit trusts, we have agreed with the other unitholders that it is appropriate for a Provisional Liquidator to be appointed to the trustee entities. This allows for an independent party to take control of the trustees, to confirm the creditors position, to investigate these assets and develop a realisation strategy. It also allows for the possibility of restoring the solvency of the trustees to the extent that any of the assets can be realised. We are working with the other unitholders to make arrangements to fund these initial activities. The work undertaken will be closely monitored and will be specifically focused on obtaining a clearer understanding of these assets. Once the position is clearer, we will then be in a position to determine a strategy to best realise the superannuation entities interests in these companies.

## **7. Ualan**

Similar to the position with Millhouse, some of the diversified investment options of the Astarra Superannuation Plan, Astarra Pension Plan and the Astarra Pooled Superannuation Trust have exposure to a number property developments being undertaken along the east coast of Australia by a company called Ualan Property Holdings Pty Limited ("Ualan") and its subsidiary entities. The exposure of these superannuation entities is in excess of \$10 million by way of shares owned in Ualan as well as loans made to Ualan to assist with the funding of the property developments. External bank finance had also been obtained to fund these developments and was secured over the developments. The superannuation entities own approximately 90% of the shares in Ualan, either direct or through several of Trio's schemes.

Following ACT Super's appointment, we obtained property advice on these developments from Colliers and DTZ. This advice indicated that for some developments, there was likely to be a shortfall to the external financiers from the sale of the developments. To the extent that shortfalls do occur, they have been guaranteed by Ualan.

As a result of this advice, we sought a plan from Ualan as to how they proposed to deal with these investments and their external financiers. We were then advised that Ualan had appointed Voluntary Administrators to itself and all the subsidiary entities. We are currently liaising with the Voluntary Administrators in relation to the realisation of the developments. Importantly, the Voluntary Administrators appear to have the support of the external financiers.

An initial report indicates that they expect that there will be sufficient funds to repay the external financiers and make dividends to the unsecured creditors, which includes the superannuation entities in respect of the loans made to Ualan. However, the timing and quantum of any dividend is not yet known.

## **8. Insurance arrangements**

ACT Super is aware that many members hold insurance policies through the Funds and that these policies are up for renewal over the next two months.

In respect of those members that hold sufficient balances within their superannuation entitlements, unless notified otherwise the relevant premium will be deducted from each member's balance.

With regard to members that do not have sufficient entitlements in their member balance to meet the cost of the insurance policy, ACT Super has made an application to ASIC to allow members to make contributions in order to meet the relevant premiums. We are awaiting ASIC's decision in relation to our application.

# **ACT Super Management Pty Limited**

---

ACT Super continues to work through this issue and will write to members or their advisors shortly in respect of any new contributions required to meet these premiums.

## **9. Pension and hardship payments**

The Acting Trustee has to date paid all pension payments due. We do not anticipate any issues with the payment of pensions in the future.

We note that prior to and following our appointment, there was a \$5,000 cap imposed on monthly pension payments by APRA. That cap has now be removed on all pension payments in the future.

The Acting Trustee has processed a number of hardship payments and will continue to make these and other benefit payments where the applications meet the assessment criteria.

## **10. General**

The Acting Trustee will provide further updates to members in due course.

In the meantime, members seeking further information can phone the Trio contact centre on the following numbers:

- Astarra Superannuation Plan and Personal Pension Plan  
1800 064 694
- Astarr Superannuation Service  
1300 616 898
- My Retirement Plan  
1300 367 111
- Seagrims Retirement Plan  
1300 233 151
- TIC Super  
1300 960 090
- Titanium Retirement Fund  
1300 121 501
- The Employers Federation of NSW Superannuation Plan  
(02) 6041 9300

Yours faithfully



Mike Hill  
*Director*