

Hello

I wish for my submission to Treasury to be included in the review of the MIS regulatory framework.

Background

For the past 25 years I have worked in financial services with much of this time spent with involvement in retail MIS and wholesale MIS issuance, distribution and oversight.

In the last 10 years I have been a part owner of a wholesale AFS license, and I am currently a responsible manager (RM) on two wholesale AFS licenses. My experience in the last 10 years has been limited to wholesale MIS issuance and oversight and I have therefore limited my responses to section 1.5 questions for consideration.

In my role I have sought and received advice across other jurisdictions and have been involved in the Singaporean market via the issuance of a bond product that meets the Singaporean bond dealing exemption which allows for marketing the bond to Accredited Investors. I have provided comments based on experience with this jurisdiction.

Question 1 – Should the financial threshold for the product value test be increased? If so, increased to what value and why?

I do not believe the product value test is suitable for the Australian market and to enable an investor to be considered a wholesale client. Investors that meet this test may not have the financial literacy to understand complex products. If an investor has \$500,000 the product value test requires the investor to invest all these funds into a single product offer. It concentrates their risk and removes diversification ability. It could be all the funds they have and is open to malicious intent by product offerors. It would be better replaced by a financial assets test of A\$1,000,000 (excluding the primary residence from the test) as a means of meeting wholesale criteria. If the client meets this test they can then invest as a wholesale investor and across multiple products at lower investment amounts at their discretion. Singapore operates a simple financial assets test.

Question 2 – Should the financial thresholds for the net assets and/or gross income in the individual wealth test be increased? If so, increased to what value and why?

Incomes in Australia have not increased at any significant rate. A\$250,000 for the past two years is still a very significant income and generally earned in industries where the recipient has a degree of skill or knowledge that can be applied to assessing financial products for wholesale clients. The assets test is where clients have met wholesale criteria in the last 5 years in my view and is predominately a function of rising house prices. Putting a cap on the primary residence (wherever located) to A\$1m would treat all investors equally and significantly reduce the number of persons qualifying as wholesale. If a restriction such as this was imposed the net assets test could stay at A\$2.5m.

Question 3 – Should certain assets be excluded when determining an individual's net assets for the purposes of the individual wealth test? If so, which assets and why?

As per my comment above restricting the value of the primary residence to A\$1m would be a significant change and easy to be administered by an accountant in assessing and treat all homeowners equally. With such variance in house prices across Australia any proposal to increase the net assets test simply favours homeowners in wealthy suburbs in Sydney and Melbourne unfairly. Owning a house in a wealthy suburb does not necessarily correspond with financial literacy to understand and assess the risk of a wholesale product.

Question 4 – If consent requirements were to be introduced: (a) How could these be designed to ensure investors understand the consequences of being considered a wholesale client?

In my experience issuers of wholesale product, done professionally and with the use of legal advice, already include warranties in their application forms of this nature. I would view them as protection for the issuer and not necessarily the wholesale investor. They can rely on these in a legal proceeding if required. In most instances wholesale investors, by this point, have made an investment decision and consents aren't going to stop them investing. It will provide more work for the legal profession but not improve protections for wholesale investors in my view.

(b) Should the same consent requirements be introduced for each wholesale client test (or revised in the case of the sophisticated investor test) in Chapter 7 of the Corporations Act? If not, why not?

As per my comment above. I do see investors meeting the wholesale criteria based on the sophisticated investor test as a very different segment. The assessment is very much a 'grey' area. In my capacity as an RM, I am not comfortable with this assessment. Whilst its use is very restricted on the AFS Licenses I am involved in; the current consents that are provided to clients are very clear. It does not stop a client from investing in my experience.

General Comments for Consideration

I feel the sophisticated investor test is an area open for manipulation by wholesale issuers. It should represent a very small percentage of a wholesale client investor base in my opinion. Based on experience less than 5% of the client base. As a gatekeeper role an AFSL auditor could be assessing the number of sophisticated clients assessed and accepted by a licensee each year to determine the suitability of the assessment which would provide greater focus on this area and ensure a check of the licensee is carried out at least annually. I am yet to be asked a question about sophisticated investor assessment, or to review the assessment, by an auditor.

Wholesale unregistered MIS products issued by non-institutional ASFL holders do not get on approved product lists of financial advisors. They are therefore unable to recommend these products to their wholesale clients. There are many reasons for this such as PI insurer restrictions, dealer group restrictions, independent research restrictions and the ability to get on investment platforms. These products don't fit these requirements. Yet it is in this space where innovation often occurs and in the case of property, where Australia is going some way to providing new housing stock. These offers overall have worked well and provided good financial outcomes for wholesale investors. Any changes to the wholesale investor criteria should carefully consider where the impact will be felt greatest. The financial advice community will often say that wholesale client segment of the market should be withdrawn and that all clients should be treated as retail. I do not agree with this proposition which pushes many clients into the limited and tightly controlled retail advice landscape. The conflicts of interest and vested interests in this area are often greater and the damage done to clients, as evidenced in the banking royal commission, cannot be ignored. It also restricts the ability of wholesale clients to have choice. Not all clients need or want financial advice and have access to other trusted professionals and self-direction to make their own decisions.

Improving access to financial literacy is a way to better protect all investors. Perhaps this could start in the school system.

Thank you for considering my submission. I welcome any further questions.

Regards