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Future of Financial Advice
Department of Treasury
Langton Crescent
Canberra ACT 2600

Email: futureofadvice@treasury.gov.au

Dear Dr Sandlant

Wholesale and Retail Clients - Options Paper

The Australian Financial Markets Association (AFMA) welcomes the opportunity to provide comments to the Treasury on its Options Paper – 'Wholesale and Retail Clients, Future of Financial Advice' (Options Paper).

AFMA represents the interests of participants in Australia's wholesale banking and financial markets. Our members include Australian and foreign banks, stockbrokers and investment banks, fund managers, energy traders and other specialised markets and industry service providers.

In summary, AFMA is opposed to radical change to the definition of 'retail client' and considers that the case for limited change still needs to be effectively made out before the Government decides on whether to make changes to the retail client definition. The distinction between retail and wholesale clients permeates the whole fabric of financial services regulation and consequently the way the financial services industry is structured. Accordingly, Option 4 should be the default policy position as it maintains the status quo and would not be detrimental to investors, unless effective justification can be established based on relevant problem identification.

Many business models rely on the definition in structuring their businesses and change will bring disruption and attendant costs associated with implementing change. These impacts will not be uniform across the financial services, with some businesses being much more affected than others. While we are unconvinced that a case for reform has been effectively made out in the Options Paper, AFMA recognises that the arguments put forward for minimal change, under Option 1 to retain and update the current

Australian Financial Markets Association
ABN 69 793 968 987
Level 3, Plaza Building, 95 Pitt Street GPO Box 3655 Sydney NSW 2001
Tel: +612 9776 7955 Fax: +61 2 9776 4488
Email: info@afma.com.au Web: www.afma.com.au

system, have some merit. The questions in relation to Option 1 are examined and the impacts of changes are considered.

Overall, if changes are to be introduced by the Government they should be moderate in nature and not cause wide scale disruption. Transitional arrangements also need to considered in conjunction with any changes to the definition

1. General

One of the strengths of the Australian financial services regime is the clear distinction between wholesale and retail markets. The current rules provide a high level of desirable regulatory certainty. Under the Wallis framework investor protection in relation to financial services is based on the need to provide adequate information to retail investors to enable them to understand risks and make informed decisions. Reflecting classic assumptions about the role of information asymmetry and efficient markets, disclosure provides information to promote better pricing and a more efficient market. This thinking links market integrity to investor protection with measures that require retail consumers to be given fulsome information, treated fairly, and have adequate avenues for redress.

While thresholds have not been adjusted since 2002, the definition of retail client has been the subject of ongoing policy consideration. The current distinction was carefully developed and considerable work went into determining how best to refine its operation in public consultations in 2006, in the context of the development of the *Corporations Legislation Amendment (Simpler Regulatory System) Act 2007*, which incorporated a mechanism in Chapter 7 of the Corporations Act 2001 from Chapter 6D. The change allows a financial services licensee to be satisfied that an investor is adequately equipped to be determined a wholesale client, which addressed circumstances where some investors were inappropriately defined in the legislation as retail clients. As it currently stands the current distinction between retail and wholesale clients can be summarised as follows:

- Product value test - the price or value for the provision of the financial product is at least $500,000; or
- Business test - the financial product or service is provided for use in connection with a business that is not a small business – being a business that if a manufacturer of goods has less than 100 people or otherwise less than 20 people;
- Individual wealth test - the financial product is not provided for use in connection with a business, and a qualified accountant certifies the investor has net assets greater than $2.5 million or gross income for each of the last two financial years of at least $250,000 per annum; or

  Professional investor test - the financial product is provided to a 'professional investor', a definition which includes Australian Financial Services Licensees (AFSLs); bodies regulated by APRA outside of superannuation; trustees of public superannuation funds; and persons controlling at least $10 million.

Clients who are unable to satisfy the above threshold tests, may request an AFSL to certify them as a 'sophisticated investor'. However, the AFSL must be satisfied that the client has, amongst other things, sufficient financial literacy.

The retail client test has served the Australian market and investors well since it was introduced in 2002. It provides the market with certainty and a practical way to distinguish the need for retail investors to be appropriately protected while allowing wholesale markets to operate efficiently unencumbered by burdensome and superfluous regulation.

2. International Developments

The Options Paper comments that internationally there are moves to clarify the treatment of retail and wholesale clients, including new definitions. It is noted that the International Organisation of Securities Commissions (IOSCO) has conducted a survey on international practices which provides a good evidence base for considering new definitions. The survey referred to is understood to be related to the work of IOSCO Standing Committee 3 (SC3). The work of SC3 in this area stems largely from concerns over the misselling of financial products, highlighted by the Joint Forum in its survey of suitability standards; the G-20 mandate to IOSCO to promote financial market integrity by reviewing business conduct rules; and IOSCO's 2009 Unregulated Financial Markets and Products report recommendation that IOSCO should review investor suitability requirements as well as the definition of sophisticated investors and strengthen these requirements as appropriate.

SC3 has been examining the issue of suitability standards for the sale of complex financial products both with regard to retail and non-retail investors. IOSCO SC3 is continuing with its work on studying the suitability requirements of distributors to retail investors, with the aim of coming up with general principles. As part of this, IOSCO is also looking at identifying appropriate criteria to define sophisticated investors and whether existing distinctions have been effective.

Australia has an existing best practice regime in relation to investor protection. It is important at a global level to avoid widely different or divergent national or regional approaches on these issues. Work on convergence in these areas is viewed by industry as increasingly important in the years to come as markets continue to globalise and investors of all levels of sophistication and capability seek investment opportunities both in their home jurisdictions and beyond. AFMA, along with other industry associations around the world, are engaged in an active dialogue with SC3 to promote efficient, fair and harmonious regulation.

Given the context of these global initiatives and the likely development of principles by IOSCO towards the end of this year, it is highly undesirable for the Government to pursue the radical options for changes to the retail / wholesale client distinction, as this would take Australia away from globally convergent norms for investor protection.

3. The Options Considered

The Options Paper puts forward a spread of four options, namely:

Option 1: Retain and update the current system

This option focuses on updating the existing product value threshold which is applicable to wholesale clients. It is suggested that the existing threshold of $500,000 in the product price or value test could be increased to $1 million.

The Options Paper raises the question of whether all three thresholds should be increased including the $250,000 gross income and $2.5 million net asset thresholds in the category for high wealth individuals.

Other possible changes include:

- introducing a mechanism to index the monetary thresholds;
- excluding illiquid assets from being counted towards the $2.5 million net assets threshold;
- ensuring that clients specifically acknowledge instances when they will be classed as a wholesale client;
- requiring clients to meet two of the three monetary thresholds ($500,000 price or value test, $250,000 gross income and $2.5 million net assets) rather than one;
- introducing additional requirements for complex products;
- changing the price or value test for derivatives; and
- repealing the 'sophisticated investor' test, so the AFSLs would no longer be able to classify clients as wholesale based on an assessment of their investment experience.

Option 2: Remove the distinction between wholesale and retail clients

This option would mean all investors, except professional investors, would receive the protections and disclosures currently applied only to retail clients.

Option 3: Introduce a "sophisticated investor" test as the sole way to distinguish between retail and wholesale clients.

This option would allow licensees of financial products and services to classify clients as wholesale by assessing their investment experience rather than relying on existing wealth threshold tests.

Option 4: Do nothing

The existing retail/wholesale distinction would remain unchanged including the existing tests and thresholds.

3.1. Options Considered

Option 2 is deemed to be a very radical proposal and would require restructuring of the financial services regime. AFMA firmly opposes this option. Investors that are by default not defined as 'retail' are considered to have the ability to inform themselves and to assess the risks involved. It is critical to bear in mind that the definition of a 'retail client' is a core concept to the functioning of Chapter 7 of the Corporations Act. It permeates the whole fabric of financial services regulation and revisions can have significant consequences for the way businesses are currently structured and the conditions of the AFSL under which they operate. It would have a huge impact on the operation of Australia's financial markets. While it is difficult to quantify the financial impact of such a change to the current system, all businesses operating in the wholesale space would have to review and introduce new practices and systems and deal with a plethora of investor protection measures which are irrelevant to the way professional markets operate. Business activity would also be greatly slowed. All theses impacts would carry with them significant cost consequences and greatly diminish Australia as a financial services centre.

Option 3 is considered to be highly impractical. The 'sophisticated investor' is a subjective test, and while the test is a useful adjunct to the prevailing objective tests by providing some flexibility in the system, it is only used in limited circumstances. The need for certainty in the provision of financial services is great, in order to address compliance needs, to promote efficiency in dealing with clients and to control liability. The complexity introduced in the system by sole reliance on a sophisticated investor test would result in significant new costs for both industry and ASIC.

A regulatory impact assessment incorporating a thorough cost/benefit analysis would be needed to justify either Option 2 or 3. Given that significant additional costs without major benefits would be introduced into the system for both clients and firms advising them it is hard to see how the adoption of either option could be justified. Accordingly, AFMA considers Options 2 and 3 to be out of contention.

Turning now to Options 1 and 4, across AFMA's membership the need for change is seriously questioned based on the regulatory problem assessment put forward in the Options Paper. Before considering these two options, what is in our view, a flawed problem identification in the Options Paper needs to be considered.

3.2. Flawed Problem Identification

AFMA considers that there has not been a sufficient identification of the regulatory problem to be addressed. The paper suggests that problems with the definition of wholesale client were exposed during the recent global financial crisis as clients who did

not have the necessary experience investing in complex financial products were able to access these products, without the benefit of adequate investor protections, on the wholesale market.

In the context of the Australian regulatory environment the example of NSW local government councils (NSW Councils) investing in collateralised debt obligations (CDOs) is cited in the Options Paper. To the extent that these investments were linked to asset backed securities and the sub-prime mortgage market in the US, this created potential exposure to movements in the secondary market valuations of CDO holdings for some NSW Councils. As a result, in 2008, the NSW Treasurer initiated a review of NSW Council investments. The conclusions of the resulting report do not identify the treatment of local councils as wholesale clients as a causal problem. Certainly issues were raised around the misselling of the CDOs. The report noted that it was:

> *unclear whether the new suite of investment products offered to NSW Councils was initially 'demand driven' or 'supply pushed' but it was most likely a combination. However, it is clear that once the market was identified, the product suppliers aggressively sold these complex investment products as complying with the Investment Order. This compliance was a necessary, but not a sufficient, condition for NSW Councils to invest, as they are also governed by their fiduciary responsibility as trustees for the prudent investment of public funds.*[1]

There is an existing suite of financial product misselling provisions in the Corporations Act which address the mischief identified in the report and provide the correct answer to the problem identified. It is also noted that the recommendations of the report, which were acted upon, included revised governance arrangements around the investment of local government funds and reinforcement of fiduciary duties to provide effective controls to deal with the demand driven aspects of what occurred with the local council investment decisions.

3.3. Minimal change

AFMA considers that the case for limited changes still needs to be effectively made out before the Government decides on whether to make changes to the retail client definition. The distinction between retail and wholesale clients permeates the whole fabric of financial services regulation and consequently the way the financial services industry is structured. Accordingly, Option 4 should be the default policy position as it maintains the status quo and would not be detrimental to investors, unless effective justification can be established based on relevant problem identification. Many business models rely on definition in structuring their businesses and change will bring disruption and attendant costs associated with implementing change. These impacts will not be uniform across the financial services, with some businesses being much more affected than others.

[1] Review of NSW local government investments – Final report, Michael Cole, April 2008, para 4.16

Adjustments to the threshold definitions will affect current business models and some service providers favour moderate adjustments as this will assist their business operations and interactions with clients. On the other hand, other service providers may have their current business operations adversely affected by any changes to the definition.

While we are unconvinced that a case for reform is effectively made out by the Options Paper, AFMA recognises that the arguments put forward for minimal changes under Option 1 to retain and update the current system have some merit. If a decision were to be made by the Government in favour of Option 1 it is desirable that the advice it receives takes account of matters raised in the questions posed in the Options Paper in respect of Option 1.

4. Option 1 Questions

Our comments now turn to consideration of the questions raised in respect of Option 1 which is to retain and update the current system.

Is an arbitrary but objective test preferable to a subjective test which more accurately reflects the individual circumstances of the client?

Yes.

While criticisms can be made, objective tests provide regulatory certainty which is should be a high priority policy goal. Objective criteria provide certainty for both clients and advisers which keep compliance costs down. From a business point of view a practical objective test allows firms to efficiently take on clients. Objective criteria promote clear understanding throughout organisations and make for better compliance and auditing.

Objective tests are also valid in varying circumstances, including under the general advice rules.

The 'sophisticated investor' test while providing desirable flexibility to the regime in particular circumstances is not widely used by the market because:

- it does not necessarily more accurately reflect the individual circumstances of the client; and
- it has the potential to expose licensees to liability.

A subjective test can result in inconsistency. The result can be significant and open-ended liability for licensees where a client who has reasonably been classified as a wholesale client realises a financial loss, while another adviser may take the view that the client is not wholesale, which would leave the first adviser open to potential claims.

Should all 3 thresholds be updated (that is, the product value test and the two tests based on personal wealth in s761G(7)(c)), or just the $500,000 product value threshold?

Product value test:

As it applies to an individual investment, the current threshold of $500,000 is appropriate as noted in response to Q3 below.

There is benefit in updating the product value threshold as it applies to consolidated investments, for example a Managed Discretionary Account.

Gross income test:

The current threshold of $250,000 is still a valid level when compared to current average total earnings for Australian full-time workers of $67,700. It would be fair to observe in the context of current public debates around taxation that persons earning above $250,000 a year are considered by the Australian community to be high income earners. While exact statistics are not publicly available on the percentage of income earners who would be in the group above $250,000 a proxy can be drawn from 2008-09 reported income statistics, which indicated that 1.5% of taxpayers were above the maximum marginal tax rate threshold of $180,000.

Net assets test:

The net assets test threshold of $2,500,000 continues to be valid.

Is $1,000,000 an appropriate new threshold limit for the product value test?
Is information available on how many investors would meet the proposed new limit for their products?

AFMA considers $500,000 to be an appropriate product value threshold..

Retention of the current threshold is important to market efficiency because it is structured into the operation of the wholesale financial markets in many areas, for example, in relation to corporate bond issues. It would be highly disruptive to wholesale market operations if this threshold were to be changed.

Raising the product value threshold could paradoxically have a detrimental impact in that it may reduce client options for the diversification of risk. Clients may override prudent diversification opportunities because of a strong desire to invest in a single $1,000,000 product. This has the potential to encourage investors towards increasing risk concentration by encouraging them to focus on just one or two high value wholesale products that are above the threshold.

Is there any specific reason why regulation 7.1.22 should not be amended to more accurately reflect the investment a client actually makes in a derivative?

AFMA does not support any changes to regulation 7.1.22. Any resulting amendment would create uncertainty and increased compliance costs through complex calculations of the investment into the derivative.

Basing the threshold amount on the fee a client actually pays by way of option premium or margin is not workable. Operationally, this would place a huge burden on issuers to determine the fee applicable at the time of trading, particularly since margins and premiums can be applied in a number of ways with many embedded in the payment structure of the product. The problem of how to define the margin arises if an issuer were required to look at payments over the life of the product to determine the amount of fees or margins payable. This is made more problematic since, for many derivatives, there are no upfront fees payable. In a high volume market where time is often of the essence, this would not be workable.

Further, for the fees and margins payable to exceed the thresholds, the face value amount of the contract would likely be very large. This would potentially exclude the availability of these types of product from a large number of investors who currently have access to them, or potentially extend the disclosure requirements to investors who fully understand the nature and risks of these products and have no need for the protections afforded to retail clients.

Introduce an indexing mechanism

How could a simple and relevant indexing mechanism be introduced?

AFMA does not support introduction of an indexing mechanism. Indexing adds a level of complexity and uncertainty to determining whether a client meets the requirements or not and would not take into account financial market corrections.

Will three different threshold limits and constant indexing be too difficult or confusing to implement?

Yes. The cost of implementation and ongoing management would be high and likely to be passed onto investors. The fluid impact that indexing would have on thresholds would make compliance extremely difficult and impractical.

What value should be used as the basis for indexing?

AFMA does not support different threshold limits and constant indexing. The cost of compliance would be high with complex training and confusion for the industry and clients alike.

How often should the 3 limits be indexed?

Indexing is not supported.

Exclude Illiquid Assets

Are there any reasons why a primary residence should/should not be included in the net assets test?

The primary residence for the majority of the population is the largest financial investment that make. Exclusion of residential property from the net assets calculation restricts the opportunity for a client to access certain wholesale products whereas a person who chooses to hold their wealth in different ways can. The focus should not be on the manner in which clients choose to invest their wealth.

If such a significant asset were to be excluded there would be concomitant need to reduce the threshold for the net assets test as it was taken into account in determining the current threshold. In addition, any mortgage that was used to purchase the primary residence should also be excluded from the net assets test or again the threshold should be adjusted to allow for these borrowings.

Are there any specific reasons why superannuation should/should not be included in the net assets test?

Superannuation should be included in assessing a client's net wealth. While the value of a superannuation account is not accessible until retirement by the account holder, the active investment of the superannuation moneys is generally under the control of the account holder. This is particularly true in respect of Self Managed Super Funds where individuals, particularly high net wealth individuals, wish to control their own superannuation savings.

Would excluding some assets cause too much difficulty or confusion for industry? Which assets?

Exclusion of any assets from an absolute threshold creates a further level of complexity and confusion for industry and clients and may have unintended consequences of increasing the cost of advice to clients through accounting and valuation costs.

While the idea of excluding illiquid assets seems to be superficially attractive, in practice it is likely to have unintended consequences and may be difficult and complicated to implement. Determining which specific illiquid assets to exclude would turn into a highly problematic regulatory task as there will be valid reasons to include and exclude most types of illiquid assets.

Would this work prohibitively to exclude clients who should be classified as wholesale?

Any threshold test based on mandatory levels of wealth or income excludes clients who have the requisite knowledge and experience to weigh up the merits of an offer against their personal circumstances.

This approach would also raise legacy issues. Excluding the primary residence is likely to exclude a number of clients who are currently classified as wholesale. A decision to exclude superannuation could also have the impact of excluding some investors who should be classified as wholesale.

Amend the Deeming Process

Would an explicit opt-in make investors sufficiently aware of what protections they are afforded?

As a general principle, for clients where the threshold tests have a practical impact in moving them out of the retail client category, they should be informed that they will not receive the benefit of protections provided to retail clients. We note that implementation of such a requirement would be much more manageable in situations where there is an advisory or other intermediary relationship than it would be for product issuers relying on the product value test only.

Would an explicit opt-in be prohibitively inefficient for industry?

For those investors providing an accountant's certificate, there is an inferred opt-in, since they are taking positive action to get themselves recognised as wholesale clients.

An explicit opt-in introduces an extra step so it would result in an additional regulatory burden. New Zealand has developed a model for this. It was introduced in the *Financial Service Providers (Registration and Dispute Resolution) Act 2008* and section 5D of the *Financial Advisers Act 2008*. A client can certify themself as an 'eligible investor'. This category asks the prospective client to affirm to the financial adviser that, amongst other things, they have sufficient knowledge, skills or experience in financial matters to assess the value and risks of financial products, and the merits of services. It is different to the 'sophisticated investor' test in that it does not require the financial adviser to document why they think it is appropriate for the client to consider themselves eligible. This test provides open disclosure to the client and gives them the option to refuse.

AFMA does not support introducing the New Zealand model as it introduces an additional regulatory step.

The policy issue being addressed is making sure the clients are aware of the retail protections they are sacrificing. It therefore seems sensible to provide them with that information. Consideration could be given to having some form of standard disclosure provided to them as to what it means to be classified as a wholesale client.

Would the true policy objective and message be easy to avoid via standard forms?

Standard forms with clear and simple disclosure would not defeat the policy objective which is to inform clients of the consequences (both positive in being able to access certain investments and negative in that certain investor protection aspects are no longer available to them) of being treated as a wholesale client. However requiring a form to be signed and returned appears to provide no practical benefit to a client as it really serves as a protection for the financial service provider in the event of a dispute.

In cases where the product value test applies, such as for those clients entering into a Managed Discretionary Account or receiving advice, it is likely to be simpler to provide details of the implication of making a wholesale investment. This will also be the case for investors applying for financial products directly with wholesale product providers, for example, internet applications.

Should investors be able to elect to be treated as a retail client even when they meet the wholesale wealth threshold tests?

Yes, because this gives the person conscious choice. However, AFSLs should be under no obligation to service retail clients who wish to access wholesale products. This is a business decision about the nature of the commercial activity a firm wants to engage in and which clients it wishes to onboard. Where retail clients approach an AFSL holder that only has a wholesale license then the individual needs to understand that if they wish to be treated as a retail client they will need to go elsewhere.

Two out of Three Requirements

Are there any specific reasons why meeting 1 out of 3 requirements is better than meeting 2 out of the 3 (or vice versa)?

Meeting one out of three tests is sufficient. Requiring two of the three tests to be met introduces an unnecessary level of complication for both financial service providers and clients, without necessarily providing any additional protection for retail clients.

Is meeting 2 of the 3 requirements likely to be a better proxy for financial literacy than the current test?

To increase tests to two out of three would unfairly exclude some clients, who should rightfully be classified as wholesale, from having access to wholesale investments. For example, investors who have accumulated net worth over a long period, and are financially sophisticated, but who do not meet the income or product value thresholds would be excluded.

Requiring two out of three is likely to result in more reliance on the product value threshold as the second test and could subsequently result in the diversification and risk concentration issues mentioned earlier becoming more prevalent.

Would this requirement be prohibitive for investors who wish to be classed as wholesale?

Adding a second test adds complexity, increases administration costs and removes choices without necessarily adding protection.

Introduce extra requirements for certain complex products

What are the complex products that the higher threshold should apply to?

Introduction of varying levels of thresholds based on product types is not supported due to increasing complexity and compliance costs which would ensue. Financial products change every year; what is complex now may be simple in the future as people get familiar with the product. Some complex products are used to improve diversification or otherwise reduce risk for clients.

Determining product complexity is a matter of judgment. Such additional requirements would mean that the Government has to define what is 'complex' which would be a problematic and controversial exercise. To be transparent, the legislation would need to determine certain products as being complex. The problem with this is that product innovation will always outpace the legislature's ability to make determinations in relation to new products. Complexity of a product should be a matter for disclosure.

Introducing additional requirements or higher thresholds for certain products is also not compatible with the design of the current regime. The current legislation allows clients (both retail and wholesale) to freely participate in the financial markets. It is unreasonable to limit one person's access to a range of products on the basis of the lowest common denominator. Many clients (both retail and wholesale) are quite capable of understanding complex products and to hinder their participation is unreasonable.

An additional consideration is the increased complexity and regulation that would result. Gaining greater consistency in relation to the classification of certain types of financial products may produce a similar outcome while not reducing the choice available for clients in the market.

What is the higher threshold that should apply to these products?

AFMA does not support a higher threshold.

Repeal the 'Sophisticated Investor' Test

Should investors with less wealth but high financial literacy have some way of accessing wholesale products?

AFMA supports the retention of the 'sophisticated investor' test as it provides some flexibility to the regime and some room for a subjective judgment to be made. There are circumstances where it is relevant and of value to clients.

If yes, how might this be operationalised in an objective manner?

The tests should be refined so that there is consistency between the definitions in section 708 and section 761GA.

Given that industry favours objective tests over subjective tests, is this a strong enough reason to repeal the section entirely?

Although the test is not the preferred option, it does have relevance in particular circumstances and gives the regime some necessary flexibility. There is no demonstrated case of a problem made out in the Options Paper to warrant a change to the law in this way.

Should the section be retained even if it is scarcely used?

Yes, but the tests should be refined so that there is consistency between the definitions in section 708 and section 761GA.

5. Further considerations

Additional questions have been raised for consideration within the paper. Our comments in relation to these and one other issue are set out below.

5.1. Professional investor test

Is the professional inventor definition still valid?

Yes. AFMA supports the retention of the current definition of 'professional investor'.

5.2. SMSFs

There is currently some confusion regarding whether "in relation to a superannuation product" in s761G applies to financial services and product made available to the trustee of a superannuation fund (other than superannuation products).

Clarification is needed regarding interpretation of section 761G in relation to how it applies to trustees of Self Managed Superannuation Fund (SMSF).

Ideally all client types should be treated the same and subject to the same tests. The distinction between dealing with a client in relation to their SMSF account and all their other accounts is not a rational policy outcome. If the client is sophisticated for all other accounts, and they make the investment decisions in relation to their SMSF account, it is illogical and inconsistent that they must be treated as retail only in relation to the investments of their SMSF.

5.3. Transitional arrangements

One matter which the Options Paper does not touch is the question of transition, were the tests to change. If it is determined after consultation that modification is required, consideration needs to be given to how the changes can be introduced, especially where there is an existing relationship between a service provider and client and the service provider is unable to provide the relevant service to a retail client under its existing Australian financial services licence authorisations.

While it is difficult to identify where specific problems may arise before any actual proposals for change are articulated t is essential to take into account the need for transitional arrangements.

Any of the proposed changes will result in clients who are currently classified as wholesale no longer meeting the requirements, resulting in a change in their status to retail. Consideration must be given to the timing of the effect of these changes. An example of this would be the question of whether it is immediate effect or at the next re-issue of their Accountant's certificate? Another question regards details as to the impact of a change in status on those investments already made. For example, where a client purchased a wholesale investment, when their status changes to retail, must they exit that investment? And if not, will there be protection for any advice provided in relation to its original purchase? Also, if exiting the wholesale product is either not possible or is not appropriate (due to the costs that will be incurred for example) what arrangements can be made?

In relation to licensees, what will be the situation where a licensee only has authority to provide services to wholesale clients and the clients are reclassified as retail clients? Will the licensee be in breach of its licence if the client's status is changed? If so, will the licensee be required to terminate its relationship with the client immediately and what effect will that have on the client's investment? If not, for how long may the licensee continue to consider the client as wholesale before it needs to either amend its licence or terminate its relationship with the client?

6. Concluding Comments

AFMA appreciates your consideration of our views. Please do not hesitate to contact me at dlove@afma.com.au or on (02) 9776 7995 for further clarification or elaboration as required.

Yours sincerely

David Love
Director Policy & International Affairs