

Submission to the Financial Services System Inquiry- Australian UCITS

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The Australian financial system is considered amongst the best governed and most efficient in the world. In particular the funds management sector is characterised as having a highly trained workforce and well managed institutions. Recent initiatives such as the creation of the Centre for International Finance and Regulation and the recognition of the potential of the financial services industry in the government white paper, *Australia in the Asian Century*, highlight the importance of the sector. Despite this recognition current collective investment vehicles in Australia utilise a dated unit trust structure that puts the funds management industry at significant disadvantage to other jurisdictions. The UCITS (Undertakings for Collective Investments in Transferable Securities) structure is now considered by many in funds management to be an international benchmark and more attractive than those structures which currently operate in Australia.

UCITS is an open ended investment fund structure established in accordance with the UCITS directive¹. This directive was enacted in 1985 and has been subsequently amended. The UCITS, directives allow collective investment schemes to operate freely throughout the EU on the basis of a single authorisation from one member state. The creation of the UCITS system has reduced costs for fund providers because it means they no longer have to create a new investment vehicle for each country in which they intended to market the product. While there have been some issues such as some EU member nations imposing additional regulatory requirements in order to protect local asset managers such structures have proliferated since their inception. In July 1998 the EU Commission published a new proposal which amended the 1985 Directive and which was finally adopted in

¹ Council Directive 85/611, 1985 O.J. (L 375) (EEC)

December 2001, known as "UCITS III"². A fourth version of UCITS came into operation in 2011 and is currently in operation³.

The popularity of such structures is evidenced by the amount of money which has been invested in them. At the end of June 2013 total net assets in UCITS vehicles stood at €6.5tn, according to data from the European Fund and Asset Management Association⁴. While principally associated with the financial centres of Luxembourg and Ireland, UCITS style funds have also become successful in Asia and Latin America. The significant capital inflow into these structures indicates that the government should consider taking steps to enable domestic investment funds to mirror UCITS.

The Australian finance sector currently has the opportunity and capacity to substantially increase funds under management by adopting a UCITS collective investment structure. Specifically, investors would benefit greatly from the flexibility and choice of having unitised multicurrency structures which facilitate simplified multicurrency investment. Such investment structures which would have several separate unit holder classes according to the currency invested. Investments would be marked-to-market in the currency of the investor and distributions would be made in the investor's home country and currency and taxed at redemption or distribution.

Australia could save considerable time and resources in developing appropriate new structures by referencing the experience of the EU. For example, the European Commission's research report how the introduction of UCITS has impacted on investment policies and risk management practices of collective investment products in the EU⁵. Such research offers Australia the opportunity to learn and from their experience and develop market leading practice and products. International investors are already familiar with the UCITS approach and this would no doubt facilitate promotion and marketing.

As traditional employment avenues are under stress and the economy continues its transition to a service economy additional employment pathways are urgently

² Directive 2001/107/EC and Directive 2001/108/EC.

³ Directive 2009/65/EC.

⁴ The European Fund and Asset Management Association (2013) 'Long-term UCITS continue to register strong net inflows of EUR 65 billion in Q2 2013', 6th September.

⁵ http://ec.europa.eu/internal_market/investment/docs/other_docs/pwc-report_en.pdf

needed. The additional inflow of funds from domestic and international investors could create employment opportunities in fund management, banks in their capacity as depository/custodians, fund administration and investment management.

Other countries are investigating the adoption of UCITS platforms. The Financial Times has reported that several Asian countries including China, Singapore, Hong Kong and Malaysia are discussing creating frameworks for product regulation that would allow funds from one state to be distributed in another⁶.

While the finance ministers of Australia, New Zealand, Singapore and South Korea have subsequently signed a statement of intent to develop a passport for cross-border fund sales this needs now to be implemented. Adoption of a UCITS platform will require the creation of appropriate legal and tax structures. While the board of tax initiated an investigation in 2011 on the status of collective investment vehicles they have not yet released their report. The release of their report would be useful in stimulating debate and informing the inquiry.

I would encourage the inquiry to thoroughly investigate the adoption of a UCITS platform in Australia.

Sincerely

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⁶ <http://lexicon.ft.com/Term?term=UCITS>, accessed 21 March 2014.