DomaCom
FRACTIONAL PROPERTY INVESTING

Restoring the general prohibition on direct leverage in superannuation on a prospective basis

Response

We support the use of direct leverage in superannuation. We believe that the perceived risks in doing so are largely dealt with by imposition of conservative loan to value ratios by the lending industry which are used to control their risks in issuing limited recourse loans.

Having expressed our support for the existing direct leverage regime, we do however strongly recommend that Regulators monitor this practice very closely in light of anecdotal evidence emerging that 'leaks' in this area are constantly emerging.

For example, we have been informed that in some instances, the lending institutions are requesting and receiving personal guarantees for limited recourse loans from the superannuation members of self-managed superannuation schemes. If this practice exists it could dramatically alter the personal consequences for consumers who have experienced a failed superannuation investment.

Maintain the status quo with improved provision of financial advice AND removal of impediments to product development

Response

If recent history teaches the financial services industry anything, it teaches that the standard of financial advice has been poor and is in need of improving. In this regard we are generally supportive of the Governments position on FoFA.

However, history has also taught the industry that poorly designed investment products are often abused and mis-sold by financial advisers. We would argue that an exemplar for this potential is the failure of the reverse mortgage market and the general lack of informed consent obtained from consumers by their Advisers regarding this product.

As a consequence, should the government embark upon a process of removing impediments to product development it should do so with great caution. It should also ensure that any new product development is compliant with the existing regulatory environment imposed by Chapter 7 of the Corporations Act 2001, the SIS Act 1993 along with the supervisory environment sustained by ASIC, APRA and the ATO.

Provide policy incentives to encourage retirees to purchase retirement income products that help to manage longevity and other risks

Response

The success of the superannuation industry has in no small way been attributed to the use of policy incentives. As a consequence we are highly supportive of the continued use of incentives and comparative market forces to encourage retirees to purchase retirement income products.

In particular we would support the broadening of the current definition of *retirement income stream products* to bring deferred lifetime annuities (DLAs) into the tax incentivized superannuation regime.

We would also encourage government and product designers to enable the purchase of DLAs on a regular contribution basis so that superannuants can direct some or all of their SG and voluntary contributions into super during their accumulation phase.

Introduce a default option for how individuals take their retirement benefits

Response

We are cautiously supportive of a default option for how individuals receive their retirement benefits on a prospective basis.

We believe that a default percentage split could operate to at least require a positive action by the consumer to vary and/or ignore the default position.

An example of how this default might work would be to introduce a 50% : 50% allocation between a lump sum and annuity default. We see this default being applied at the beginning of the consumer's participation in the superannuation industry rather than an election at or near retirement. Consumers could then be provided with an opportunity to alter this split on a rolling 5 yearly basis over their working lifetime.

The reason for a rolling 5 year adjustment 'window' is to give consumers an initial period during which they can engage with the retirement savings environment and for them to get advice on the features and benefits of each option. On an ongoing basis, the future 5 year anniversaries will encourage consumers to build their financial literacy skills by continuously engaging with their retirement savings plans and the advisers who will support their decisions.

We would also see this default process operating closely with the existing tax concessioned superannuation regime. For example, the level of concessions could be weighted toward consumers who select either an annuity or lump sum and annuity combination with lesser tax concessions available to consumers who have nominated lump sum only benefits.

Mandate the use of particular retirement income products (in full or in part, or for later stages of retirement

Response

We do not support an introduction of mandates to force consumers to use retirement income products. However we do strongly support the use of incentive and concessions to encourage their use.

What if any regulations impede the development of products to help retirees access the equity in their homes

Response

We are firmly of the belief that it is entirely possible to bring innovative products to the equity release market operating within the existing regulatory environment imposed by Chapter 7 of the Corporations Act 2001 in concert with the enforcement capabilities of ASIC, APRA and the ATO.

We strongly endorse this regime and would be highly critical of any move toward a relaxation of existing regulations to accommodate new product design in this area.

The lessons of the past teach us that poor product design and mis-selling has closely followed lax regulation and/or an under resourced Regulator and given the consumer sensitivity associated with private home ownership in Australia, any failure in this area would be catastrophic.

In support of our assertion that innovation in the equity release market is possible within the existing regulatory environment we would offer our own product as an exemplar.

DomaCom launched Australia's first Managed Investment Scheme that enables property sellers and investors to transact in fractional property interests in a fully compliant and regulated environment.

Despite the challenges that the company faced in bringing to market such a new and innovative product within the framework of Chapter 7 of the Corporations Act, we found ASIC to very helpful throughout the entire process.

The discipline of working within this regulatory environment imposed upon us by both ASIC and our external Responsible Entity – (Perpetual Trustees) ultimately resulted in a better designed product that is now fully monitored by the Regulator on an ongoing basis. At the end of this process we received the relief that we required in order to commence operations and had our Product disclosure Statement approved and our Managed Investment Scheme registered in December 2013.

Having commenced commercial operations earlier this year we will shortly be re-engaging with both parties (ASIC and Perpetual) to bring to market an equity release version of our product. We are fully committed to launching this version of the product as a Managed Investment Scheme, monitored and supervised by the Regulator.

In brief, home owners will be able to release equity from their homes by selling an interest that entitles the buyer/investor to a portion of the future sales proceeds (fractional property interests or FPIs) to investors through the DomaCom Property Platform. These FPIs are held within a Sub-Fund within the DomaCom Fund by our external Custodian and investors will be issued units to reflect their share of the Sub-Fund.

Home Owners will receive the cash proceeds placed into the Sub-fund by the investors in consideration for the sale of the FPIs attached to their property.

Without preempting any future decisions by ASIC, we believe that many of the challenges raised by them during our extensive consultations last year have been largely resolved.

In particular, issues relating to a permanent right of abode for home owners and the liquidity of investors' interests in the Sub-Fund have already been accommodated.

We will also be requesting ASIC's approval for an innovative 'staggered settlement' option for home owners who might prefer to receive their settlement proceeds on a monthly basis spread over a predetermined period of time. Our intent with this feature is to create a settlement process akin to an immediate annuity for those home owners looking to manage their cash flows for lifestyle funding purposes.

In conclusion, we strongly support the existing regulatory environment and the discipline it imposes on product promoters such as DomaCom. We believe that consumer protection in the home equity market should be the preeminent concern of government and these concerns are best managed through the existing regulatory regime.

Should Government move toward the relaxation of this compliance regime in order to encourage product innovation, the attractiveness of this market to promoters combined with poor consumer education in this area will inevitably see a repeat of such failures as Storm, Commonwealth Financial Planning, Trio and Westpoint sometime in the future.