

Part I—Retail investors and incentives to invest

The collapse of a number of high-profile agribusiness MIS has resulted in substantial financial losses for investors in such schemes. In this part of the report, the committee provides some insight into the emotional, physical and financial harm caused by the failure of these schemes and the reasons retail investors, with little or no experience in investments, entered into these ventures.

The committee considers the use of tax incentives as a driver to invest in agribusiness MIS and how the concessions were used as a selling point. It looks at the motivations that encouraged investors to take out recourse loans to fund their investment; their understanding, or as it turned out their misunderstanding, of the loan arrangements; the trust they placed in their advisors; and finally their vulnerability and high susceptibility to the marketing techniques used to promote and sell agribusiness MIS.

Chapter 3

Human cost

The reason I need to bring my story for your attention and consideration is based on the current suffering and personal circumstances that have forced us to sell our family home that we have lived in and made home for the last 14 years. This is just a small part of the impact that this Timbercorp story has had on me and my family. I myself now suffer from depression. As well as being a type 1 diabetic, I now have to take more medication daily to treat my depression which is now constantly affecting my life and the life of my family. This goes hand in hand with the stress that has been put on my marriage and my family life on a daily basis since Timbercorp collapsed.¹

3.1 People from all walks of life and of varying ages were encouraged to become investors and, moreover, to borrow to invest in agribusiness MIS. As a group, many investors, known as growers, bore the brunt of the massive losses occasioned by the MIS failures.² Importantly, they could not be characterised as sophisticated investors but as retail investors entering into complex borrowing arrangements to finance a speculative venture.

3.2 For the purposes of this inquiry, the committee is concerned primarily with retail investors, many of whom were first time investors and not highly literate in financial matters.³ When the schemes collapsed, many of these investors lost not only their investment and prospects of future income but were saddled with the burden of repaying the loans and interest on a valueless asset. In this chapter, the committee looks at the personal toll on growers who lost out on their investment in agribusiness MIS.

Personal accounts

3.3 Evidence before the committee is replete with stories of the shattered lives of people who invested and borrowed to invest in agribusiness MIS—separation, broken relationships, lost life savings, bankruptcy, damaged health, depression, self-harm and

1 Name withheld, *Submission 72*.

2 See Clarendon Lawyers, Submission to CAMAC, Managed Investment Schemes, paragraphs 3.2.2 and 3.2.3.

3 For the purposes of this inquiry, the committee does not discuss the propriety of the legal definition of a retail investor as determined in regulations 7.1.18–7.1.28. The committee however, uses this test as a guide: that is the value of the financial product should be under \$500,000 and net assets of under \$2.5 million or gross income for each of the last two financial years under \$250,000. Applying this test, the great majority of growers who wrote to the committee would be categorised as retail investors: they were inexperienced investors with limited knowledge of financial products and ill-equipped to appreciate the risks involved in more complex financial products.

families placed under enormous stress.⁴ For example, with the likelihood of bankruptcy hanging over his head, one investor, a director of a small business, feared for his position and the possible termination of the business. Another grower stated simply that the failed scheme had left his 'financial position and superannuation in tatters'.⁵

3.4 Other investors found the prospect of rebuilding their lives unattainable: a number were forced to live in temporary mobile accommodation while some had contemplated suicide. An investor, who described herself as 'an everyday suburban mother, was 'paralysed, angry, confused and perplexed at the whole saga'.⁶ Without doubt, the failure of these various MIS has taken a heavy toll, emotionally, physically and financially, on investors. One such investor stated:

We had to sell our family home in 2013 to try and reduce our debt and we now live in a shed on a block of land out of the Perth metro areas as we could not afford to buy another family home.⁷

3.5 Since the global financial crisis (GFC) and because of their failed investment in Great Southern, a 63-year old man and his wife have been living in a 16-foot caravan having lost their home, superannuation, savings, life insurance and 'somewhere for the grandchildren to stay with them'. They are unable to find full employment because they do not have a fixed address and, in their words, face 'an extremely bleak future'.⁸ Another described the devastation to her family's emotional, financial and physical wellbeing:

We nearly found ourselves divorced and in counselling through all this mess, my health has taken a turn for the worse. I am living with an Auto Immune disease and depression, brought on by increased stress...The decision to put a stop to growing our family has been made because of the financial uncertainty that we face...I have to work and cannot be the stay at home mum I would like to be...My only child may very well just be an only child, this saddens me and has caused many arguments in our house.⁹

3.6 A couple described their grim situation, which:

...has robbed us of any plans we once had for the future and will strip us bare of almost everything we have ever worked for. Now aged in our late

4 See, for example, *Submissions 1, 2, 6, 28, 31, 33, 55, 57, 61, 62, 72, 73, 75, 76, 77, 78, 93, 101, 112, 113, 114, 115, 117, 123, 131, 147, 162, 167 and 169*. See also Ms Naomi Halpern and Mr Bernard Kelly, *Proof Committee Hansard*, 12 November 2014, pp. 2, 4. *Confidential Submissions 8, 35, 37, 59, 66, 83, 116, 131, 192*.

5 Mr Brad Pearce, *Submission 111*, p. 1.

6 *Confidential Submission 92*, p. [2].

7 Name withheld, *Submission 33*, p. [1].

8 Mr Alexander McShane, *Proof Committee Hansard*, 6 August 2015, p. 3.

9 Name withheld, *Submission 75*, p. [1].

50s, we live in fear of never being able to recover from this mismanaged debacle.¹⁰

3.7 Another couple indicated:

The last five years of uncertainty has had a devastating effect on our lives. The damage on our marriage, our health and overall state is irreparable. We feel helpless in doing the most basic thing of providing for our children. The ability to retire seems far gone as we face the very real prospect of losing our home. It is hard to imagine our financial future, as it stands; there is none.¹¹

3.8 Many were on the brink of selling, or had sold, their family home to meet their loan obligations.¹² The father of three young boys, forced to relinquish his home at a loss, stated:

We understand that investments don't always work out, but this is an extreme outcome. We were trying to make our future financially better and through no fault of our own our financial future is dire. We need a commercial outcome that is fair and achievable and not a hopeless situation.¹³

3.9 In his words, '[w]e cannot afford to pay back 85c in the dollar and feel very strongly it is unfair to have to do that. We have done nothing wrong, nothing illegal and yet we are made to feel that way by the aggressive tactics of the liquidators'.¹⁴ Many others found themselves in a similar situation. According to another grower:

I'm 42 years old with three dependent children and this was going to be my long term investment for retirement.¹⁵

3.10 Mr Peter Jack described the considerable strain that his family was experiencing because of the failure of Timbercorp:

We have gone from having a secure future to now a future of uncertainty with the very real and present danger of our livelihood being destroyed and the forced sale of our family home.¹⁶

3.11 A number of investors lost, or put at risk, their superannuation. One such investor stated:

10 *Confidential Submission 37*, p. 1.

11 Name withheld, *Submission 102*, p. [1].

12 Name withheld, *Submission 31*, p. 1.

13 Name withheld, *Submission 18*, p. 1.

14 Name withheld, *Submission 18*, p. 1.

15 Name withheld, *Submission 62*, p. 1.

16 *Submission 25*, p. 1.

The only way I could pay this loan would be to [take] money from my superannuation fund to repay which will further affect my finances for the rest of my life.¹⁷

3.12 Mr Peter Tomasetti stated simply 'Our superannuation savings were lost'.¹⁸

3.13 A number of the growers invested in the schemes at a time of their lives when recovering from a financial loss would be difficult if not impossible. One grower aged 53 suggested that he was nearly unemployable and will have no choice but to declare bankruptcy and 'go on the dole and possibly be forced into government housing'.¹⁹ Another told the committee that at his age he will never own a home again or regain the same financial security he once had.²⁰ Yet another couple around the same age could only hint at their predicament:

At the age of 54, we are now on the brink of being financially wiped out/bankrupted/back to square one in getting somewhere with a roof over our heads, when we should be getting ready for the next enjoyable phase of life.²¹

3.14 One older couple stated:

We are retirees aged 71 and 68 who have lost our life savings, superannuation and will now have to sell our home to repay loans to a bank for investments in Great Southern MIS schemes which we should never have been given.²²

3.15 A single older female informed the committee that, in April 2008, she went to a financial adviser (based on a recommendation from a friend) to set herself up for retirement. She explained that she wanted to 'be self-sustaining and not reliant on the government pension'. Her biggest fear was being unable to take care of and feed herself. She explained:

If I am forced to repay this money I will LOSE my home, I will have nothing for my future. I think the emotional impact of this is untenable, I hope I am more tenacious than this but there is a part of me that would prefer to 'just give up' if this is to be the outcome.²³

3.16 One submitter summed up the desperation facing those who borrowed to finance their investment in agribusiness MIS and who continue to see their debt mount:

17 Name withheld, *Submission 30*, p. 1.

18 *Submission 170*, paragraph 27.

19 *Confidential Submission 40*.

20 *Confidential Submission 35*.

21 Name withheld, *Submission 61*, p. 1.

22 Name withheld, *Submission 65*, p. 1.

23 Name withheld, *Submission 73*, p. 1 (emphasis in original).

This situation requires rapid restitution to stop this type of under-handed thievery once and for all. We bear witness to the accumulating, depressive, detrimental effect of MIS collusion as we watch our lives slip by, year after year, without a fair resolution. Why should a daily walk to the letterbox cause our heart to pound with anxiety? Not to mention the sudden panic that erupts at the sight of a courier van in our street...when all we can do is close our eyes and pray that the driver continues on his way without stopping to knock on our door to serve the writ that will ultimately seal our fate. How much longer do we have to hold our breath in fear, and then exhale feeling totally drained of the energy we need to face yet another day of this relentless pressure?²⁴

3.17 The stories retold here do not adequately convey the deep pain and suffering endured by many of the growers who invested in MIS. Some struggled to put together their submission because re-living it was 'extremely confronting', while others could not summons the energy and have remained silent.²⁵

3.18 In the following chapters, the committee examines the factors that enticed people to invest in agribusiness MIS.

24 *Confidential Submission 37*, p. 3.

25 See, for example, Mr Bernard Kelly, *Submission 117*, p. [1].

