

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2016 - 2017

Division/Agency: Financial System Division

Question No: 248

Topic: Forestry Managed Investment Schemes – Government Response

Reference: Written

Senator: Ketter, Chris

Question:

1. Recommendation 15 of the Forestry Managed Investment Schemes Report recommends that the Australian government consult with states and territories on improving consumer protections for loans in relation to MIS Investments. In the government's response to the report (released 29 November 2016), it says that: The Government will consider the level of consumer protections associated with MIS, including any related credit arrangements, as part of its announced review of the MIS framework (FSI Recommendation 42).

- Can you explain what the announced review of the MIS framework is?
- When will it be starting?

2. Can you explain how the 'announced review' aligns with the government's response to FSI Recommendation 42?

3. Don't you think undertaking another review is different to the Government response to recommendation 42 of the FSI (20 October 2015), in which the government said "The Government agrees to develop legislative amendments to enhance the regulatory framework for managed investment schemes, drawing on the Corporations and Markets Advisory Committee report and a forthcoming Senate Committee Inquiry report."? There was no reference to a review there. There was only a reference to developing legislation based on the Corporations and Markets Advisory Committee report and a forthcoming Senate Committee Inquiry report.

4. Elsewhere in the Government's response to the Forestry Managed Investment Schemes Report (in response to Recommendation 20) it says that "the Government's review of MIS will commence following the introduction of the CIVs regime to ensure there is policy consistency across investment fund frameworks from a retail investor perspective." When you say that the review will commence following the introduction of the Collective Investment Vehicles regime, are these the two measures in the 2016 budget? [If this is referring to the Collective Investment Vehicles (CIV) measures in the 2016 budget, these aren't scheduled to commence until 1 July 2017 and 1 July 2018]. So we might not have a review starting until July 2017 or July 2018?

5. Do you acknowledge that the delayed starting date for even the review sits uneasily with the Senate Committee's finding that there was an urgent need for reform (page 180): "The committee is firmly of the view that an urgent need exists to reform the disclosure obligations on those providing credit advice and on lenders who provide funds to retail investors for recourse loans."?

Answer:

Question 1, 2, 3, 4

- In its response to recommendation 42 of the Financial System Inquiry (FSI), the Government agreed to develop legislative amendments to enhance the regulatory framework for Managed Investment Schemes (MIS), drawing on the Corporations and Markets Advisory Committee (CAMAC) report.
- As part of the 2016-17 Budget, the Government announced that it would introduce the framework for two new collective investment vehicles (CIVs) (a corporate model and a limited partnership model) which, once implemented, will provide alternate investment vehicles to the MIS. As part of this reform, there will also be a number of regulatory features which will be examined in response to the CAMAC's report and findings of the Senate Inquiry into Forestry MIS.
- The Government's review of MIS will commence following the introduction of the CIVs regime to ensure there is policy consistency across investment fund frameworks from a retail investor perspective. As the Government continues to develop a new legislative framework for CIVs, the commencement date of the MIS review has not been determined.

Question 5

- In addition to developing a new legislative framework for CIVs and the anticipated review of MIS, the Government is implementing a number of other initiatives that address recommendations made by the Senate Inquiry into Forestry MIS.
 - The Government has provided ASIC with \$121 million in additional funding as part of the Improving Consumer Outcomes in Financial Services package announced on 20 April 2016 to improve ASIC's ability to detect financial sector misconduct and to increase its surveillance and enforcement activities.
 - On 20 April 2016, the Government commissioned an independent review of the external dispute resolution and complaints schemes in the financial system. This is examining all aspects of the framework to make sure consumers and small businesses have access to low-cost, and speedy ways of resolving financial disputes. The review has provided its final report to the Government, and the Government is considering its response. On 3 February 2017, this review was also asked to make recommendations on the establishment, merits and potential design of a compensation scheme of last resort and on the merits and issues involved in providing redress for past disputes. The review will report on these aspects by the end of June 2017.
 - On 4 August 2016, the Government announced that the major banks would be called to appear at least annually before the House of Representatives Standing Committee on Economics to explain how they balance the needs of borrowers, savers, shareholders and the wider community. The major four banks have now twice appeared before the Committee – in October 2016 and March 2017. The Committee has previously questioned the four major banks about the failure of TimberCorp and could inquire into banks' lending practices in relation to investors in MIS in future hearings.
 - On 19 October 2016, the Government announced the ASIC Enforcement Review. The review will include an examination of ASIC's licencing powers in relation to financial service license holders (which included responsible entities of MIS).
 - The Government has committed to equip ASIC with a product intervention power that would enable ASIC to take a more proactive approach to reducing the risk to consumers and to introduce measures that will make financial product issuers and

distributors accountable for ensuring product reach their desired target markets. The Government released a consultation paper on these measures in December 2016.

- In February 2017, legislation was passed to increase the education, training and ethical standards of financial advisers.