**23 May 2011**

## Focus on investor compensation overlooks protection

Events such as the recent Trio compensation debate and last week's release of ASIC research findings on the effects on investors of lack of compensation suggest that prevention and protection is being overlooked.

Mr Harvey Kalman of Equity Trustees Ltd says he is concerned that, in the debate over compensation and the reports of the issues facing investors in Wellington Capital, flaws in the present approach to investor protection are not also being discussed.

"Discussion about Trio and MFS/Wellington investors, among others, show there are strong arguments to strengthen the role and independence of REs, yet this discussion is not taking place.

"The recent settlement achieved by Fincorp investors proves the benefit of having an independent RE still standing after a collapse of a fund manager.

"While ASIC called for feedback on ways to strengthen the financial resources of REs last year, I believe there are other areas that need examination.

"Investors in collective investments such as managed funds should be able to rely on the role of the Responsible Entity (RE) to protect their savings, but REs have been found wanting when fraud or inappropriate behaviour has occurred where managers used an in-house RE.

"With few if any exceptions, the problems brought to light in the aftermath of the global financial crisis have been caused when the RE fund manager and promoter have been inextricably entwined.

"There is clear evidence that the RE environment has not only failed to protect some investors from the worst excesses of those they trusted with their money, but has also reduced their recourse in the event of wrong-doing.

"In addition to compensation, and the associated costs and possible inadequacy of this, in the event of wrongdoing we need to ensure there is an RE with adequate financial resources still standing.

"This will give investors the likelihood of investors recovering all, or most, of their original investment."

Mr Kalman's business unit at EQT acts as the external Responsible Entity for over 40 fund managers. He says that clear separation of the RE from the fund manager and promotion would increase investor protection significantly.

He said that he believed in-house REs should be restricted to organisations that have overall size and capacity to resource and structure them in a way that gives those running it independence from those promoting and managing the fund.

“Smaller entities that do not have the resources to establish and resource an in-house RE, completely separate from those who manage the money and promote the fund, should have an external RE.

“If all promoters and managers that cannot be defined as “large” have an external RE, it also strengthens the preventative role, increasing the probability that wrong-doing will be prevented.

“It will reduce the need for the levels of compensation now being discussed and provides more security for investors,” Mr Kalman said.

***About Equity Trustees:*** *Equity Trustees is a publicly listed company that provides a range of financial services to corporate and private clients. Its businesses include independent responsible entity services, funds management, private client wealth management, and corporate and personal superannuation.*

*The company manages in excess of $4 billion in its funds management, private client and superannuation businesses and has in excess of $14 billion under responsible entity administration. Equity Trustees employs over 160 people in its Melbourne, Sydney and Brisbane offices.*

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