MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Submission template

Capital Markets Reforms Phase Two

This is the submission template for the discussion document, *Capital Markets Reforms, Phase Two*. The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in the discussion document by **Tuesday, 25 August 2026, 5:00pm** (six weeks from release).

Please make your submission as follows:

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    b. Save your submission with your organisation or personal name in the file name.
    c. Email your submission, with "Capital Markets Consultation" in the subject line, to:
    - *financialmarkets@mbie.govt.nz* as a Microsoft Word document (**preferred**), or
    - you may also submit by mail to:

      Financial Markets Policy
      Business, Resources and Markets
      Ministry of Business, Innovation & Employment
      PO Box 1473
      Wellington 6140
      New Zealand

Please send any questions you have about the consultation process to the financial markets email above.

Submission on discussion document: *Capital Markets Reforms Phase Two*

Your name and organisation

Name	Bell Gully
Date	15 September 2026
Organisation (if applicable)	
Responding primarily as or on behalf of …	☐ Investor / investor interests ☐ Company / business / issuer ☐ Fund manager / KiwiSaver provider ☐ Financial advisor ☒ Lawyer / legal analyst ☐ Economist or academic ☐ Other ______________________________
Contact details	christopher.goddard@bellgully.com james.cooney@bellgully.com

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Capital Markets Reforms Phase Two

Submission template

New Zealand's approach to capital markets regulation	
0.1	What regulatory settings would you like to see considered for change in the next phase?
	We support prioritising the areas already identified in this document. Two key principles that we encourage MBIE to consider are: (1) To ensure that New Zealand securities law is right-sized for our market. In particular, recognising that our capital markets, compared to most overseas markets, are comparatively small and that most of our businesses are also comparatively small. Efficient regulation is critical. We need to avoid adopting practices from other markets (particularly on a piecemeal basis) without first carefully considering whether it is appropriate for our market – in particular having regard to relative size differences between the markets. We need to be innovative and creative to find settings that encourage capital markets to flourish in New Zealand. This is consistent with the objective of regulatory proportionality. (2) Connected with (1), our capital markets regime needs to be <u>more</u> attractive than that in Australia (our key competitor). The Australian market is deeper and therefore we need to offer a point of difference. We consider this should be an important focus for our securities law reform – not simply seeking alignment but looking to making capital raising easier in New Zealand compared to Australia. The most successful change brought in by the FMC Act was the "same class" offer exclusion – based on the Australian cleansing model but improved so that it can also be used for offers to retail investors. Secondary offers are easier to execute in New Zealand than in Australia, allowing billions of dollars of new equity to have been raised through pro-rata offers to shareholders (including retail shareholders) without the need for a disclosure document (which is still required in Australia). This approach of improving on the Australian regime should be the model. Australia sees greater transaction volumes than the NZ market experiences. This, in turn, has led to regulations in Australia which are more "road tested" than their New Zealand counterparts, and that has created the opportunity for the Australian position to be more developed, and, in general, perhaps more accommodating to participants where that is possible and does not offend general regulatory principles or policy. One example of that is section 609(7) of the (Australian) Corporations Law. This provides that ASIC can grant relief to exempt parties from needing to make "relevant interest" disclosure under the substantial product holder regime where a bidder is forming an agreement with a major shareholder to make a takeover bid. That relief is subject to certain conditions about the nature of the bid, but is still a very useful provision, which is not present in the New Zealand laws. As such, bidders in New Zealand can be limited in progressing transactions compared with the position in Australia. We would also encourage a shift in the mindset of lawmakers, policymakers and regulators. The objective should move beyond a traditional model focused primarily on protecting the "ordinary person in the street", towards a more mature and sophisticated regulatory approach that recognises the differing needs, circumstances and levels of sophistication of participants. Where the nature of a company's business requires it, regulation should support more sophisticated and appropriately tailored disclosure, rather than applying a one-size-fits-all approach designed primarily for retail investors. Platforms like Sharesies have made owning shares in foreign companies simple. This creates significant pressure for New Zealand companies seeking to raise capital – because potential investors (including retail investors) now have so many different options. The capital markets in New Zealand have become much more global than they were even five years ago. Our securities law settings need to reflect this. New Zealand's securities law should also be modified to take full advantage of current technologies. In particular, email should always be a permitted mode of delivery (especially given current postal times) and there should no longer be a requirement to provide a hard copy of any documents (anyone wanting a hard copy can arrange for their own printing). The current opt-in regime for electronic communications should be removed, with electronic communications being made mandatory.

In terms of further changes:

(a) **Relaxing the historical information requirement for IPOs**. There are a limited number of IPO windows in a calendar year, and the number of windows is further limited by the historical financial information requirements. Currently the requirement is for the last three years, which creates a blackout period of a couple of months as soon as the annual balance date is passed during which an IPO cannot be undertaken. This is to allow for the financial information for the prior financial year to be prepared and audited, which can take a few months and therefore further limits the IPO window. For example, if a company with a balance date of 30 June plans to lodge a PDS in June 2026, it would have to defer until September 2026 whilst the FY26 financial information was prepared and audited if there was minimal slippage to the timetable and lodgement did not occur by 30 June 2026 (but could have occurred in early July 2026). The impact is significant, as a result of a few days delay to the timetable. To remove this blackout period, we suggest the issuer has the option of including:

   (i) the most recent 3 years (status quo), or better still the most recent 2 years with the option to include the third year; or

   (ii) if lodging the PDS in the first 3 months post-balance date, the most recent interim financial statements and the full year financial statements for the 2 years prior to that period (i.e., 2.5 years in total). Issuers could have the option to include PFI for any actual or forecast period not covered by the historical information. If no PFI was included, there would be a maximum 9 month period of actual performance not covered in the financial information disclosures. It should be for the issuer to decide whether to launch on that basis (rather than not having the choice currently), for example with the inclusion of management commentary on performance over that period.

(b) **Give potential issuers more autonomy in relation to the content requirements for PDS for IPOs**. Potential issuers should have more flexibility to decide how much or how little information is provided (see item (c) below), within certain limits. We believe that potential issuers are best placed to assess the potential trade-off between pricing and completing the IPO. If an issuer wishes to include less information to hit a listing window and create the platform for future sell-downs, with the potential consequence of getting worse pricing initially under the IPO, then it should have the right to make that election rather than being required, in all cases, to follow a set prescribed format (with the risk that it misses the window).

(c) **Consider an additional IPO pathway that permits IPOs to institutional investors only**. Allow a very short-form listing document and an investor presentation (with no prescribed consent requirements, but perhaps with an "all material information" rule applying). The resulting 12 month on-sale restrictions that would otherwise apply to New Zealand based participants in the IPO could be reduced to 3 months for this pathway. If retail investors wanted to, they could acquire shares post-listing, thereby supporting the share price and success of the IPO. A standdown period running from listing to the earlier to occur of (i) the issuer's release of the first annual report post-listing and (ii) 3 months post listing (to allow for 3 months of continuous disclosure announcements) could be applied to retail investors if that could be policed through the registry. The perceived advantage of investing as part of the IPO is that investors receive the benefit of the post-listing uplift in share price.

(d) **The waiting period for PDSs in section 65 of FMC Act should be removed**. The regime needs to change from a "make public then wait" model to a "pre-clear then launch" model. No document should be made public until it is cleared by the FMA and NZX. Currently, if comments are raised during the exposure period, there is the unsatisfactory position where there will be multiple documents in the market (the original PDS and the replacement PDS) which causes confusion for investors. Perhaps more importantly, it extends the market risk period of the IPO by at least a week – increasing the risk of a new adverse event arising which the current regime does not solve for due to the unworkable re-confirmation requirements (see below). Removing this concept will effectively mean the FMA will need to undertake its detailed review and all issues it has with the disclosure resolved prior to launch on the offer – which in our view is appropriate.

(e) **Removing the one month reconfirmation requirements for IPOs**. This requirement effectively means an IPO will need to be cancelled if a significant new event occurs during the offer period which requires a supplementary or replacement PDS. This is because the market risk exposure period is more than doubled by this one month extension. The FMA initially granted "new circumstances" exemption notices (along the lines granted for the Mighty River Power IPO) which allow for a shorter withdrawal process in place of the one month confirmation process, but with such onerous and outdated conditions (such as adverts needed to be placed in multiple hard copy newspapers) that issuers have generally not sought these exemptions. We strongly recommend a modernisation of this approach. If all applications under an IPO can be made via an offer website (as they are with secondary offers). Any updates to the disclosure document could be published on that website. Applicants who have already applied would be sent an email giving them five business days to withdraw. This would allow an IPO to continue, notwithstanding the new circumstance disclosed. The current 1 month confirmation process is disproportionate to the framework that applies from listing, where investors will be responsible for monitoring market announcements made by listed issuers.

(f) **Facilitating Australian IPOs into New Zealand through removing the current on-sale restriction in Part 2 of Schedule 1 of the FMC Act**. That on-sale restriction, which can restrict a participant in the IPO from selling their shares for 12 months, applies to Australian offers into New Zealand (even if made into New Zealand under the mutual recognition regime). Such a restriction is carved out for offers made under mutual recognition out of New Zealand into Australia (clause 31(2)(d)(iii)). There is no reason for this inconsistency. If this change is made so that clause 31(2)(d)(iii) also applies to recognition regimes, it would facilitate offers by Australian offerors into New Zealand and potentially increase the number seeking a foreign exempt listing on NZX.

(g) **Creating a workable, and single "due diligence" defence for breach of the FMC Act (in particular Part 2 and 3)**.

(i) There are currently different due diligence defences in sections 499, 500 and 503. A standardised "reasonable steps" or "exercises due diligence" should be applied universally across those sections. We note that "all reasonable steps" is too onerous to satisfy – litigation funders could argue that the defence to liability would not apply if one single step could have been, but was not, taken. The appropriate test should be whether the relevant person took reasonable steps or exercised reasonable due diligence in the circumstances, rather than whether it is possible in hindsight to identify an additional step that could have been taken.

(ii) We consider that the current due diligence defence in section 499 is so narrow (as a result of needing to satisfy both limbs (i) and (ii) of section 499(1)(b)) that it has limited value. Section 499(1)(b) should be deleted and replaced with a standardised "reasonable steps" or "exercises due diligence" as noted in (i) above.

(iii) The reasonable reliance defences should not exclude reasonable reliance on information provided by the company itself. The company will ordinarily be the primary source of information regarding its own business, financial position, operations and prospects. Section 499(3) should be deleted, otherwise the reasonable reliance defence is too narrow.

(h) **Simplifying some of the exclusions in Part 1 of Schedule 1 of the FMC Act.** For example:

(i) the only requirements for the "small offers" exemption should be the number of investors relying on the exemption and the offer size. The "personal offer" requirement, the FMA notification requirement, and exclusion for sales of shares (clause 12(4)) and the additional advertising restrictions (clause 13) should all be deleted. Simplifying the exception to offers of up to $2m to up to 20 investors will facilitate the use of the exemption, by removing the friction caused by the additional requirements;

(ii) the requirement for an acknowledgment should be removed for the NZ$750,000 exclusion. The requirement that the amount of application monies and a warning statement is protection enough;

(iii) the "no consideration" exclusion should be clarified so that it applies on a share exchange where the shareholder economically remains in the same position (even if there is a shareholder vote); and

(iv) quoted securities which are issued under a wholesale investor exclusion should not be subject to on-sale restriction.

(i) **Beneficial tax structures for income/capital received by individuals in New Zealand from NZX stocks rather than offshore stocks/ETFs**. It has become so easy, via online platforms, to acquire any worldwide stocks or ETFs, an incentive to invest locally would help promote NZX listed stocks. The tax benefits should not be given to the listed companies because that would dis-incentivise offshore investors (e.g., PIE entities only favour NZ investors). If such an entity grows in Australia, it may be incentivised to shift its listing to Australia).

(j) **Accessory liability**. We consider that professional advisers and professional underwriters should be expressly excluded from the liability regime. Only the company and its directors and employees should face liability for a breach by the company of the civil liability provisions. Regulation should clarify what "being involved in" means.

(k) **OIO relief for entities with an NZX primary listing**. To assist with the attractiveness of having a primary listing on NZX, provide that an entity with such a listing is not an "overseas person" for the purposes of the Overseas Investment Act. To address any concerns in relation to this being manipulated, such relief could be specified to only apply after a certain minimum listing period (for example, 6 months) and could include a condition subsequent that the listing must be maintained for a certain minimum listing period.

Other comments:

Investment in attracting and retaining the best people to work within the regulators would also lead to better regulatory outcomes. Regulators need to be able to compete for high-quality professionals with the private sector, which requires remuneration that appropriately reflects the expertise, responsibility and complexity of the work involved. In many offshore financial jurisdictions, working for a regulator is regarded as a prestigious and highly respected career. Regulatory positions attract experienced professionals, often recruited from the top firms. Developing a similar culture and capability here would strengthen both the quality and credibility of regulation. Regulators could also benefit from structured secondments from leading professional services firms and industry participants, as well as outsourcing specialist activities—such as the regulatory review of a PDS—to appropriately qualified top-tier firms where specialist expertise is required. The objective should be to ensure that regulators have access to the same calibre of expertise as the organisations they regulate. A well-resourced regulator staffed by highly capable and experienced professionals is more likely to make sound, commercially informed and proportionate regulatory decisions, ultimately delivering better outcomes for investors. In offshore jurisdictions, it is often regarded as a privilege to work for the regulator. These roles carry genuine prestige and attract talented people. We should aspire to create the same environment here.

u Do you support the three objectives for change framing this document? What objectives would you recommend to guide considerations of future changes?

We support the three priority outcomes of proportionality, a strong equity ladder and global competitiveness.

Of these, proportionality should be given primacy: regulatory settings should be no more burdensome than necessary to achieve their protective purpose. Settings designed to protect the lowest common denominator will be prejudicial to the long-term success of the NZ's capital markets. Regulatory settings must be right-sized for NZ's capital markets.

0.3 Are there aspects of the current FMC regime we have not mentioned in our overview that are limiting our capital markets?

No.

0.4 Has our general overview of current trends in domestic and global capital markets left out anything particularly relevant for considering the strength of New Zealand's capital markets?

No.

0.5	Taking into account current trends and developments in capital markets, do you think the FMC Act needs a more fundamental review? Where would you focus such a review? Do you think the purposes outlined above remain appropriate? If not, how would you change them?	No. In the short term we consider that relaxing some of the existing settings within the current framework would produce the most effective response. A more fundamental review could be taken at a later point of time.
0.6	If you could address 2-3 strategic priorities with substantial impact in the FMC regime, what would they be?	Our strategic priorities would be: (1) making the capital markets easier and cheaper to operate in than Australia; (2) making it easier to come to market in New Zealand; and (3) recalibrating director and issuer civil liability settings, particularly deemed director liability.
0.7	How do you perceive the position of New Zealand's capital markets in the global context? What strengths do our capital markets offer? What positioning do you think we should aspire to? What does ambition look like to you?	New Zealand's capital markets benefit from strong institutions, a stable legal system and transparent regulation, but remain comparatively shallow, with fewer institutional investors, listed companies and market participants than larger economies. We should aspire to be viewed as a low-friction, proportionately regulated market that is easier to raise capital in relative to Australia.
0.8	What competitive strengths do you think New Zealand could build toward with regulatory change, and what change is needed?	New Zealand needs to be a faster, lower-cost jurisdiction for capital raising and listings than Australia. New Zealand will never be capable of competing with the deeper capital markets of Australia, so it needs a point of difference that a bigger market cannot replicate.
0.9	This document and discussion are focussed primarily on regulatory change. Are there non-regulatory steps you think the Government could take to support capital markets?	Beyond regulatory change, the Government could support capital markets through targeted tax incentives (e.g., as noted above, beneficial tax structures for income/capital received by individuals from NZX stocks rather than offshore stocks/ETFs).
0.10	What non-regulatory steps do you think the sector could lead to support capital markets?	Industry bodies and market operators could lead work to rebuild broker research coverage.
0.11	Please provide any other thoughts you would like to share with the Government on capital markets regulation.	None.

1. Product Disclosure Statements

1.1	Do you think current PDS requirements are proportionate (aligning requirements with risks)? Do you think current requirements are meeting the purpose of the PDS?	The current PDS disclosure requirements are too repetitive, too prescriptive and too inflexible. The one-size-fits-all content and format requirements apply regardless of offer size or investor sophistication. As

	an example, the prescribed word limit applies equally to the most-complex of businesses and to the simplest business. The Australian principles-based prospectus regime, which imposes no prescriptive page limit but requires only the information investors reasonably require, is a useful comparator.
1.2	Please share any evidence, research or insights you may have on investor (or intermediary) use of the PDS.
	N/A.
1.3	Do you agree with the problem definition in relation to the PDS? Which, to you, are the most pressing issues to be addressed?
	We broadly agree with the problem definition.
1.4	Do you know of companies which have considered listing financial products (including on NZX) that have chosen not to do so, where the PDS requirements were part of that decision? Or which have made wholesale-only offers to avoid the costs and delays of PDS?
	N/A
1.5	Do you think the current PDS requirements could be reduced without compromising retail investor confidence and protections?
	Yes. The duplication between the KIS and some of the other sections could be removed. In addition, some sections that duplicate information available on the Disclose Register or in company financial statements could be made optional. Issuers should have more flexibility to weigh-up the benefits of more detailed disclosure with the potential success of the offer.
1.6	Which of the preliminary options do you support for further development, and why? • If you support B, which sub-option do you support? • If you support C, which sections would you remove or reduce and/or, which instruments do you think it should apply to (such as the debt to overseas investors scenario or other specific types of offers)?
	We support Option B(i) on the basis we consider a reduced PDS overall (but with an increased KIS) and supplementary information available on an easy to access application website strikes the right balance between simplifying the overall disclosure (reducing cost and time to prepare the PDS) whilst still maintaining a level that goes beyond a fact-sheet level of disclosure.
1.7	If the full PDS were reduced, which parts do you think are most important to retain?
	If the full PDS were reduced, in the context of an equity PDS following sections should be retained: • Key Information Summary (with the word length doubled) • Issuer and what it does • Purpose of the offer • Key dates • Terms of the Offer • Financial information • Risks • How to find more information • Glossary The following sections could be moved to Disclose: • Chair's letter • Key features of ordinary shares

	• Tax • How to apply • Contact Information The above suggestion requires: • All applications to be made online • The application website to have all of the materials on the Disclose website easily accessible.
1.8	Do you think the adaptation of the PDS requirements to a 'digital-first' format should be a government priority? Do you know of examples in other jurisdictions?
	Yes. If you consider the target market and trends (e.g., the availability of online platforms), a digital-only PDS design should be a government priority. Our expectation is that New Zealand investors will increasingly use artificial intelligence tools to assist them with their investment decisions. To ensure that the investor gets the highest quality assistance, regulated disclosure content should be designed to be readily accessible by those tools. A digital PDS should be designed to achieve that.
1.9	In your experience, what requirements in the Act and Regulations are preventing the PDS from being more digital friendly? How much regulatory change would be needed?
	We consider it would be better in the long-run for a specific, fit for purpose, digital PDS section to be introduced through legislative change, rather than trying to tweak multiple parts of the current legislation.
1.10	If you have experience making financial offers digital friendly, how have you done this (app, website, portal, etc.) and how have you managed this while still meeting PDS requirements?
	For secondary offers, an offer specific website (via the share registrar) is created. It allows for an easy to access platform for all of the required information and an online application form. Our experience is that it is a very user friendly interface for applicants to view what information they want to see before applying for shares.
1.11	Are there overseas models of PDS that you think the Government should consider?
	The Australian principles-based prospectus model discussed in the document is a useful overseas comparator, given the trans-Tasman policy alignment objective.
1.12	Please share any other comments, evidence or data you have on PDS requirements.
	No further comments.
2.	**Civil liabilities for directors and issuers**
2.1	Do you agree with the problem definition around current settings for director liabilities? Please provide evidence or examples.
	We agree with the problem definition. In particular, the continuous disclosure liability regime and the deemed liability for directors for a false or misleading statement in a PDS impose unnecessary compliance and insurance costs, encourage defensive disclosure practices and discourage quality people from being directors. Although continuous disclosure is very helpful for the market, this does not require strict liability. The liability regime needs to recognise that assessments in relation to whether disclosure is required are often challenging (particularly given the associated time pressure). Decisions are viewed with the

	benefit of hindsight, and in a level of forensic detail very different to the dynamic environment in which those decisions are being made. There needs to be a clear fault element. We propose the following in relation to continuous disclosure: • Liability for issuers should be fault based, for breach of the continuous disclosure obligations. This should require recklessness or dishonesty. • The constructive knowledge aspect of when an issuer is "aware" for the purposes of the assessing when the obligation to disclose under the continuous disclosure regime commences should be removed. This should be replaced with a positive obligation to have adequate systems and processes in place to identify and disclose material information. Breach of that obligation should lead to potential liability for the issuer to the regulator only, and not private claims. • The liability regime for directors and senior managers should remain as is. We consider that liability should be focussed and fall primarily on the company, and that for others (including directors and senior managers) the accessory liability regime should apply. Regulation should clarify what "being involved in" means in this context specifically. We consider that deemed director liability under section 534 of the FMC Act should be deleted.
2.2	How significant are civil liability settings compared with other factors affecting public market participation, such as market depth, liquidity, access to private capital, listing costs, ongoing compliance costs, and broader economic conditions?
	We believe that civil liability settings are particularly relevant for companies considering listing and people considering becoming directors.
2.3	Which option do you support (A or B) for potential change to liability in relation to continuous disclosure contravention for directors and other persons? Please indicate a preferred sub-option as well if relevant. Please give your main reasons.
	We support Option B(i). We consider that the existing accessory liability regime (and defences) should be retained, but regulation should clarify what "being involved in" means in this context specifically.
2.4	Do you have a preference not reflected in the options in relation to continuous disclosure contravention for directors and other persons?
	No.
2.5	Are there any other issues or impacts the Government should consider in relation to liability for continuous disclosure contraventions for directors and other persons?
	No.
2.6	Which option do you support (C or D) for potential change to liability in relation to continuous disclosure contravention for issuers? Please indicate a preferred sub-option as well if relevant. Please give your main reasons.
	For the reasons set out in response to question 2.1 above, we support Option D(iii) (amend issuer liability settings for continuous disclosure by moving from strict liability to a fault-based standard. The law should distinguish between recklessness, deliberate non-disclosure and inadequate systems, and a reasonable judgment made on the information available at the time. This is also more consistent with the reasonable-steps protection already recognised for individuals under section 272 of the FMC Act.
2.7	Do you have a preference not reflected in the options in relation to continuous disclosure contravention for issuers?

	No further preference beyond Option C as set out above.
2.8	Are there any other issues or impacts the Government should consider in relation to liability for continuous disclosure contraventions for issuers?
	No.
2.9	Do you think changes to deemed director liability should be considered in relation to all markets, or for NZX only?
	We consider that changes to deemed director liability should extend to all markets, not just NZX, so that Catalist and USX issuers benefit from the same proportionality improvements, given that these smaller-market issuers are arguably even more sensitive to the compliance and insurance costs associated with deemed liability.
2.10	Which option do you support (E, F, or G) for potential change to deemed director liability? Please indicate a preferred sub-option as well if relevant. Please give your main reasons.
	We support Option G(iii) — removing deemed director liability. In our experience listed boards exercise no less level of care in relation to disclosures which do not attract deemed liability. The deemed liability therefore just results in increased insurance costs and the potential for defensive disclosures.
2.11	Do you have a preference not reflected in the options in relation to deemed director liability?
	No further preference beyond the combined approach set out above.
2.12	Do you have other comments on what the Government should consider in relation to deemed director liability?
	No.
2.13	Are there international models you would like the Government to consider?
	No.
2.14	Please share any other comments, evidence or data you have on civil liabilities.
	No further comments.
6.	**Wholesale investor issues**
6.1	Do you have any evidence or experience of difficulties around the use of the eligible investor self-certification, or misuse of the self-certification approach? Please provide detail.
	No.
6.2	Do you consider that the wholesale investor regulatory framework provides adequate retail investor protections? Or do you consider that it presents a barrier to investment?
	The current framework does not, in our view, present an undue barrier to investment for genuinely experienced investors.
6.3	Which option for change in relation to the wholesale eligible investor certification would you support (noting that the options are not mutually exclusive).
	The concern appears to be that the application of the regime does not ensure all eligible investors do in fact have the necessary level of experience. Accordingly, we suggest Option C is best suited to address the concern. This option provides a check and balance on the individual's own subjective belief that they do in fact have the necessary levels of experience. It also aligns more closely with the Australian approach.

	Our observation is that Option D (Introducing an investment cap) undermines the premise of the Wholesale Investor category. It suggests that Eligible Investors are not in fact sophisticated enough to make their own decisions about investments, creating a new tier of quasi-wholesale investors. Many wholesale funds adopt a minimum investment size as a way to screen out retail investors and we consider this a useful tool that should remain.
6.4	Which option do you prefer in relation to the period of validity for eligible investor certificates (currently 2 years)?
	We support Option E - a change to a 5 year period.
6.5	Do you have any evidence or experience of concerning behaviours with the advertising of wholesale offers? What recommendations do you have for restricting this promotion?
	No.
6.6	Do you have concerns with other aspects of the wholesale regime (beyond eligible investor category and the promotion issues raised)? Do you think the $750,000 threshold for individual investment remains appropriate, or should it be adjusted?
	We do not have significant concerns with other aspects of the wholesale regime and do not consider that the $750,000 threshold needs to be updated. It is already significantly high to serve its purpose.
6.7	Please share any other comments, evidence or data you may have on wholesale settings.
	We consider that the focus should be on controlling the offerors (i.e., those entities who are alleged to be mis-marketing complex offers to investors without the necessary level of sophistication) rather than on the recipients of those types of offers. This is particularly the case given the growing use of digital marketing and pathways available to target retail investors without the necessary level of sophistication.

7. Auditor liability

Although we are not commenting on the auditor liability section, it is important to note that the liability of lawyers is primarily determined by contractual limitation of liability put in place between the lawyer and its client (usually under the lawyers' terms and conditions). It would be unusual for lawyers to accept joint and several liability with other professional service providers.