

14 May 2024

Sean Turner, Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear Committee Secretary,

Submission - Inquiry into wholesale investor and wholesale client tests

Introduction

Giant Leap manages Early Stage Venture Capital Limited Partnership (ESVCLP) registered funds which invest on behalf of our investors, in founders solving our most pressing global problems at scale across climate, health and empowerment & education and has invested in over 30 companies to date.

Founded in 2016, Giant Leap is Australia's first impact venture capital firm.

Reduced scope

Although the Committee has six terms of reference they are requesting feedback on regarding the inquiry into wholesale investor and wholesale client tests, in this submission, we have chosen to focus on three key references that are the most relevant to us as a venture capital fund, our investors and the startup ecosystem.

Term of Reference	Scope
1. review of the current wholesale investor/client tests, including: legal requirements, identification of all contexts in which the tests are relevant, the consequences of an investor/client meeting the relevant test, and the application of the tests in practice;	Outside scope
2. the historical development in Australia of the wholesale investor/client tests and consideration of any previous reviews and inquiries;	Outside scope
3. comparison with comparable overseas jurisdictions, including any proposed or recent changes to tests used in similar contexts;	Inside scope
4. consideration of any proposals to change the wholesale investor/client tests,	Inside scope

including: any evidence to support such proposals, the possible consequences (both intended and unintended) of any change to the wholesale investor/client tests, the costs and benefits of any change, the impact of any change on different cohorts of investor/client and other stakeholders;	
5. any potential adjustments to proposals to change the wholesale investor/client tests to address the concerns of stakeholders;	Inside scope
6. the process to be adopted prior to settling any change to the wholesale investor/client tests, including any additional Government consultation process necessary to ensure full and proper consultation prior to implementing any change; and	Outside scope

In particular, we have sought to respond to the following terms of reference:

<p>Term of Reference</p> <p><i>3. comparison with comparable overseas jurisdictions, including any proposed or recent changes to tests used in similar contexts;</i></p>

Response

European Union (EU) and Norway¹

In addressing the comparison with comparable overseas jurisdictions, particularly the European Union (EU) and Norway, regarding proposed or recent changes to tests used in similar contexts, we highly suggest the consideration of an educational pathway to accreditation rather than increasing financial hurdles. This recommendation aligns with the risk-based approach applied in the EU, specifically in categorising clients as Per Se Professional Clients or Elective Professional Clients.

The EU's framework delineates between clients based on their demonstrated expertise, experience, and knowledge, as outlined in the "Qualitative Test." This test requires firms to undertake a thorough assessment to ensure clients are capable of making their own investment decisions. Moreover, the "Quantitative Test" sets criteria such as transaction frequency, financial portfolio size, and industry experience to further qualify clients as professionals.

Importantly, clients opting for professional status must explicitly state their preference in writing, acknowledging the potential loss of certain protections. This transparent approach ensures clients are fully aware of the implications of their decision, mitigating risks associated with uninformed choices.

¹ <https://toniic.com/accredited-investor-equivalents/>

By contrast, proposals to increase financial thresholds for wholesale investor/client tests may inadvertently exclude individuals with sufficient expertise but limited financial resources. Such an approach could impede market participation and stifle innovation, contrary to the overarching goal of fostering dynamic and inclusive financial ecosystems. We note that the United Kingdom reversed its raise its thresholds for those exempt from restrictions to invest in potentially risky investments such as early stage technology companies.

²An educational pathway to accreditation offers a more equitable and effective solution. By providing structured learning opportunities and assessments, aspiring investors can enhance their knowledge and skills, thereby qualifying for professional status based on merit rather than solely financial metrics. This approach not only promotes financial literacy and empowerment but also aligns with principles of fair access and opportunity.

Furthermore, an educational pathway complements existing regulatory mechanisms by reinforcing investor protection through informed decision-making. By ensuring that accredited professionals possess requisite knowledge and understanding of financial markets, regulators can uphold standards of integrity and stability while facilitating market efficiency.

In conclusion, we highly suggest the committee to consider the adoption of an educational pathway to accreditation as a prudent and progressive measure. This risk-based approach, akin to the EU model, offers a balanced framework that enhances investor protection, fosters market participation, and promotes financial inclusivity.

Term of Reference

4. consideration of any proposals to change the wholesale investor/client tests, including: any evidence to support such proposals, the possible consequences (both intended and unintended) of any change to the wholesale investor/client tests, the costs and benefits of any change, the impact of any change on different cohorts of investor/client and other stakeholders;

Response

Regarding the consideration of proposals to change the wholesale investor/client tests, particularly concerning the individual wealth test thresholds, we do not support the proposed increase in financial thresholds for net assets and/or gross income in the individual wealth test. Our stance is rooted in a comprehensive analysis of the potential consequences, both intended and unintended, of such changes.

While we acknowledge the Government's objective of preventing the sale of sophisticated financial products to individuals lacking the requisite knowledge, we believe the current proposed changes may not effectively achieve this aim. The wealth thresholds, as they stand, do not adequately reflect

² <https://www.ft.com/content/072ae6eb-e3cd-4c5d-b906-7c05436fa647>

investors' ability or expertise to make informed investment decisions. Instead, they merely serve as a measure of wealth in isolation, overlooking other crucial factors influencing investment suitability.

We anticipate several negative unintended consequences arising from the proposed changes, including:

- **Negative impact on investment, particularly early-stage investment:** Restricting access to wholesale investor status may impede early-stage investment, essential for fostering innovation and driving productivity gains. Angel investors and venture capital fund managers, vital contributors to innovation ecosystems, may face barriers, ultimately hindering overall economic and business development in Australia.
- **Disproportionate effect on women, minority groups, and regional communities:** The proposed changes will disproportionately impact women, minority groups, and regional communities, exacerbating existing disparities. With women comprising only 27% of high-income earners, the policy's exclusionary nature would further marginalise these groups, both as founders seeking capital and as potential investors.
- **Widening of the wealth gap:** Increasing thresholds may lead to a widening wealth gap, as investors failing to qualify as wholesale clients may miss out on high-quality investment opportunities. This would be a significant reversal of the democratisation of investing that Australians have enjoyed over recent years.

In light of these concerns, we highly suggest the committee reconsider the proposed changes and explore alternative approaches that achieve the intended regulatory objectives without stifling investment, exacerbating inequalities, or widening the wealth gap. We believe a more nuanced, inclusive, and risk-based approach is necessary to strike the right balance between investor protection and market accessibility.

Term of Reference

5. any potential adjustments to proposals to change the wholesale investor/client tests to address the concerns of stakeholders;

Response

We recommend an education pathway to Wholesale status. Suggestions on how an education pathway to Wholesale status could work include:

- **A risk-based approach:** a focus on knowledge rather than wealth in isolation to mitigate the risk that investors do not understand the investment products that they are investing in. Responsibility would shift to the individual investor to gain the necessary knowledge in order to classify as a Wholesale Client.
- **ASIC to be the governing body to approve courses:** Any course provider should be able to submit a proposed course (including outline and content of the course) to ASIC for approval. ASIC would maintain a list of approved courses that can be accepted by AFSL holders to classify the investor as a Wholesale Client if they have shown evidence of taking an approved course.



- **Asset class specific courses:** The courses would need to be asset class specific to ensure investors have the appropriate knowledge to invest in that specific asset class.
- **Accessible, affordable and inclusive:** Ensure women, minority groups and regional communities are not disproportionately affected by any proposed regulatory changes and the wealth gap does not continue to widen by ensuring that courses are accessible, affordable and inclusive. For example, facilitate approval of online and asynchronous courses to make them low cost.

Should you have any questions, please feel free to contact me.

Kind regards,



Will Richardson
CEO and Managing Partner
Giant Leap