

# Chapter 1

## Introduction

### Terms of reference

1.1 On 27 May 2009 the Parliamentary Joint Committee on Corporations and Financial Services resolved that:

Having regard to the recent collapses of Timbercorp and Great Southern, the Committee will inquire into and report by 7 September 2009 on agribusiness managed investment schemes (MIS), with particular reference to:

1. business models and scheme structures of MIS;
2. the impact of past and present taxation treatments and rulings related to MIS;
3. any conflicts of interest for the board members and other directors;
4. commissions, fees and other remuneration paid to marketers, distributors, related entities and sellers of MIS to investors (including accountants and financial advisers);
5. the accuracy of promotional material for MIS, particularly information relating to claimed benefits and returns (including carbon offsets);
6. the range of individuals and organisations involved with the schemes, including the holders of the relevant Australian Financial Services Licence;
7. the level of consumer education and understanding of these schemes;
8. the performance of the schemes;
9. the factors underlying the recent scheme collapses;
10. the projected returns and supporting information, including assumptions on product price and demand;
11. the impact of MIS on other related markets; and
12. the need for any legislative or regulatory change.

### Conduct of the inquiry

1.2 The inquiry was advertised in *The Australian* newspaper and online. The committee invited submissions from interested organisations, government departments and authorities, and individuals. The closing date for submissions was 26 June 2009, and the committee agreed to table its report by 7 September 2009.

1.3 The committee received 60 formal submissions, along with associated correspondence and supporting material. Appendix 1 lists the individuals and

organisations that made public submissions to the inquiry, as well as tabled documents and additional information provided to the committee.

1.4 The committee held a public hearing in Canberra on 15 July 2009. Appendix 2 contains a list of witnesses who gave evidence at that hearing and responses to questions on notice taken at that hearing.

### **Acknowledgement**

1.5 The committee thanks those organisations and individuals who made written submissions and gave evidence at the public hearings.

### **Note on references**

1.6 References to submissions in this report are to individual submissions as received by the committee and published on the internet. References to the committee Hansard are to the proof Hansard, and page numbers may vary between the proof and the final Hansard transcripts.

### **Report structure**

1.7 Chapter 2 outlines the structure and operation of agribusiness managed investment schemes (MIS); the Australian regulatory environment for MIS; the tax arrangements that apply to agribusiness MIS; and the current state of the sector.

1.8 Chapter 3 discusses agribusiness MIS structural issues, including the incentives for MIS investment and related market distortions; the effect of high costs and uncertain revenue assumptions on scheme performance; the ability of the MIS structure to withstand restricted access to capital; potential measures to prevent responsible entity (RE) failure; and arrangements for managing competing interests when an RE collapses.

1.9 Chapter 4 examines the advice that leads people to invest in agribusiness MIS; the accuracy of disclosure material provided to investors; the appropriateness of limiting the availability of these products to sophisticated investors; and the importance of educating consumers about investment risk.