IFSA

Investment and Financial Services Association Limited

Fifty Years of Managed Funds in Australia

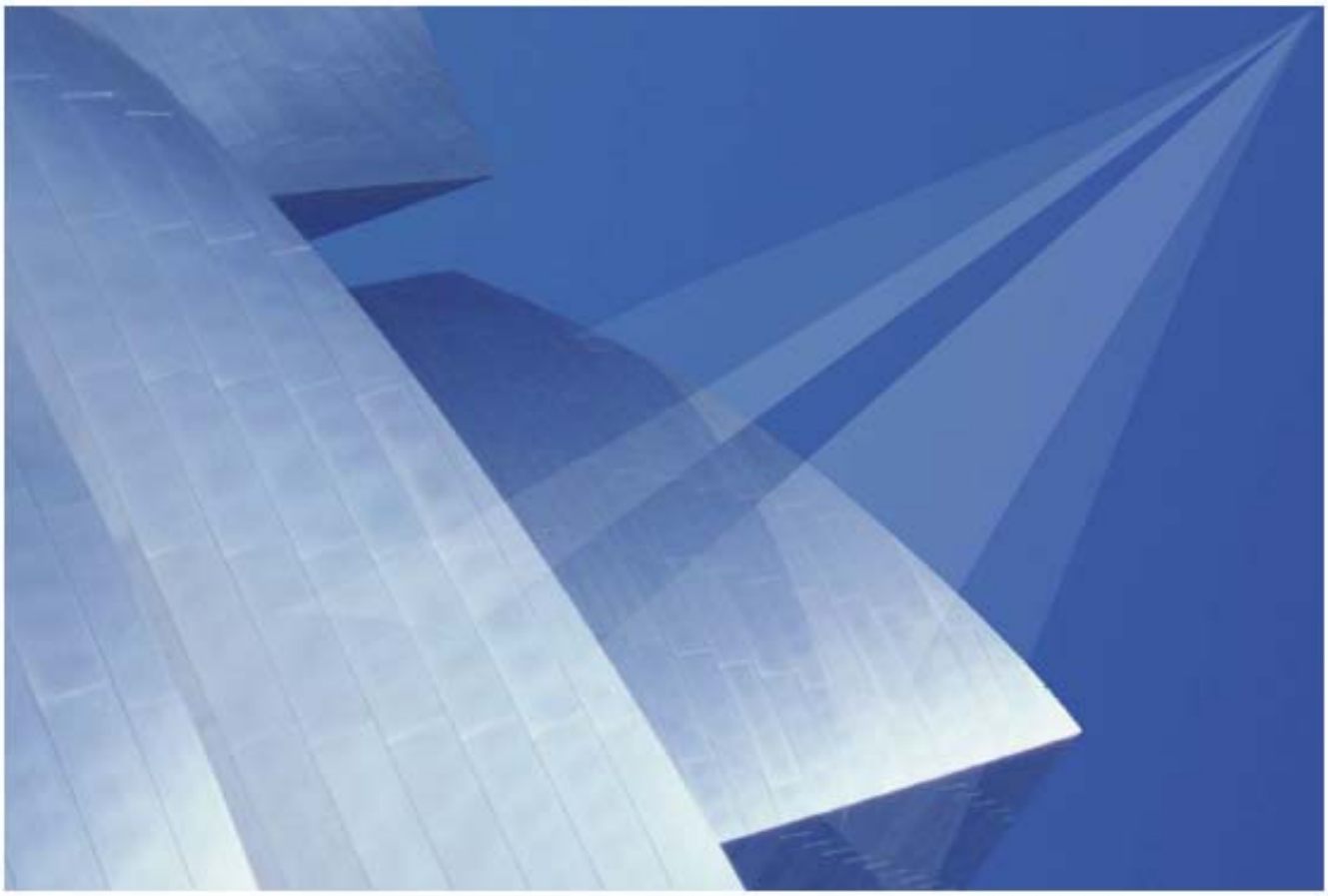
Preliminary Research Report

by
Bernard T Mees
Monica S Wehner
Pamela F Hanrahan

CCLSR

PROUDLY SPONSORED BY

KPMG



Fifty Years of Managed Funds in Australia

Preliminary Research Report

-By-

Bernard T Mees
Monica S Wehner
Pamela F Hanrahan

About the authors

Pamela F Hanrahan is an Associate Professor of Law at The University of Melbourne and Deputy Director of the University's Centre for Corporate Law and Securities Regulation. She is the author of *Managed Investments Law & Practice* (1999) and a co-author of the sixth edition of *Securities and Financial Services Law* (2003). She is also the lead author of the Australian edition of, and a co-author of the New Zealand, Malaysian, Singaporean editions of, *Commercial Applications of Company Law*.

Bernard T Mees holds a PhD in history from The University of Melbourne and has worked in the funds management industry, including for a time with William M Mercer in Melbourne. His grants and awards include a Diebold Foundation (USA) general grant (2000), University of Melbourne faculty traveling and research abroad scholarships (2000), and a Gladys Krieble Delmas Foundation (USA) Venetian research fellowship (2003).

Monica S Wehner is a doctoral candidate in history at The University of Melbourne. She holds a Master's degree in Arts from the Australian National University, where she was a member of the Research School of Pacific and Asian Studies. She is the co-editor of *Without A Gun: Australians' Experiences Monitoring Peace in Bougainville, 1997-2001* (2001).

Centre for Corporate Law and Securities Regulation

The Centre is located in the Faculty of Law at The University of Melbourne in Victoria, Australia. Telephone: +61 3 8344 5281. Email: cclsr@law.unimelb.edu.au. Website: http://cclsr.law.unimelb.edu.au

1. Introduction

The idea for this research project was hatched at the IFSA conference dinner on the Gold Coast in August 2004. The following year, 2005, was to be the semicentenary of the first Australian legislation specifically regulating managed funds. With many of the participants in the conference only just starting to recover from the massive task of implementing FSR,[1] it seemed timely to look back at the journey, for the funds management industry, from one that operated entirely under the regulatory radar in 1954, to one of the most significant and intensely regulated parts of the Australian financial sector by 2004.

From its inception the project had the enthusiastic backing of the Investment and Financial Services Association and several of its member firms, and in particular of Richard Gilbert at IFSA and Jeremy Duffield at Vanguard. IFSA decided to fund the first stage of the research, to be carried out under the auspices of the Centre for Corporate Law and Securities Regulation at The University of Melbourne. Other IFSA members and individuals have also offered support and it is hoped that, if the research continues beyond this initial stage, that support (both in funding and in access to primary source material and oral histories) will be matched by others.

---

[1] The *Financial Sector Reform Act 2001* had fundamental redrawn the regulatory framework for fund managers. The two year transition period allowed for under the Act ended in March 2004.

Very early on in the project it became clear that what was needed was something beyond a legal history of changes to regulation of the industry. We realised that no-one had yet produced a history of the Australian funds management industry itself. So it was decided (perhaps ambitiously) to begin work on such a history using IFSA's resources and CCLSR's research infrastructure and expertise.

The first task was to define what we would cover in our research. While it was tempting to take on 'funds management' generally,[2] or to look at all of the forms of 'collective investment' offered to Australian investors,[3] such a endeavour was clearly beyond the resources of this project. Instead we decided to focus on the pooled investment products, typically structured as unit trusts, partnerships, mutual funds or syndicates, that are marketed to Australian retail investors. There products are the core of the statutory

---

[2] By 2005, the expression 'funds management' has come to embrace three distinct but related activities. ASSIRT has described these activities as '"manufacturing" (the actual investment of the money provided by investors, consisting of security selection and asset allocation), administration of "platforms" (these are, broadly, master trusts and wraps, the most common method of investment for retail clients) and "distribution" (promotion to, and interfacing with, the external investors and their advisers under the manager's own brand)'.

[3] Managed funds are one type of collective investment; others include superannuation funds, investment linked policies of life insurance, and investment companies.

concept of a ‘managed investment scheme’, and the predecessor ‘prescribed interest scheme’.

Second, we had to decide on our approach. It seemed to us that the history of managed funds and their regulation can be considered from a number of different angles. Some of those are explored here, with others suggested for future inquiry.

We decided to start with an ‘overview’ of the industry, in the form of a narrative survey of key developments and events over the last 50 years. This overview, written by Dr Mees, is contained in Part 2 of this report.

Dr Mees then looks, in Part 3, at the last 50 years from the perspective of the managers and their products. Who were the fund managers, and who owned them? What products did they offer? We consider a number of things, including not only who the most prominent fund managers were at different stages in the industry’s development, but also the patterns of ownership of fund managers (in particular, participation by retail banks in the sector, and the extent of foreign ownership).

Part 3 also deals at a very high level with the issue of product development and innovation. Clearly this is an aspect of the industry’s history on which a great deal more could be investigated and written. Part 3 provides a mud map of fund managers’ changing asset preferences and approaches. In the 1950s and early 60s managed funds were mostly invested in equities, with a smattering of debentures, fixed interest and direct property. Mortgages joined the mix in 1963. But a sustained period of poor performance by equities from the mid sixties to mid seventies saw the rise of property at the expense of other asset

classes that eventually resulted in about three-quarters of the industry comprising property or related investments by the late 1970s.

This trend reversed after 1980, following the introduction by Hill Samuel of the cash management trust to the Australian market. Diversified funds, international funds, sector specific funds and special purpose funds followed through the late 1980s and 1990s. In 1990, the unlisted property trust sector tanked, on the back of the property market reversals of 1989 and 1990. The failure of Estate Mortgage and Aust-Wide, and governmental intervention to suspend redemptions, led to the end of the open-end illiquid funds.

More recently we have seen the emergence of new products, investing in new asset classes and adopting new investment approaches (for example, infrastructure funds and hedge funds). This last decade has also seen the debate over the merits of internal and external management in the listed trust sector, and the emergence of stapled securities. It has also been the decade of "platforms", with master trusts and wrap accounts emerging as the main interface between fund managers and their clients.

Part 4 of the paper then takes a different tack, looking at the industry from another perspective. Its primary focus in on investors. Who invested in managed funds over time, and why? How were managed funds marketed to them?

Of course the story of the last 50 years is the move, identified by the Wallis Committee in 1997, in patterns of household savings away from traditional bank deposits towards managed funds as the preferred investment vehicle for retail investors.[4] In Part 4 Ms Wehner identifies a number of key factors that may account for this move, including not only changes in successive governments' retirement incomes and financial markets policies, but also the changing role of women, changes in job security and employment patterns, technological innovations, and the impact of the media.

Another key part of this picture is the role of the investment adviser, with growth in 'wealth management', financial planning and investment advisory services (and their penetration into the suburbs and into the retail banking suite) both the cause and the result of the growth of the managed funds sector after 1980.

Part 5 surveys the corresponding changes in the regulatory landscape that took place over this time. Victoria continued its proud history of regulatory innovation, by introducing the first legislation specifically directed at managed funds, in 1955. The approach to regulation it adopted was modeled on the law of debentures. In the same way as debenture issuers, unit issuers were now required to produce a prospectus, and were required to appoint a trustee for unit holders. This regulatory model was adopted by most Australian jurisdictions by the early 1960s.

---

[4] Commonwealth of Australia *Financial System Inquiry Final Report* (March 1997) 90.

Over the next thirty years there were various refinements to this basic model of regulating the issue of 'prescribed interests', with extra controls being imposed on both management companies and trustees. Developments to the broader framework of investor protection, including those following on from the Rae Committee's findings, were applied in the managed funds area as well. Management companies were subject to regulation as securities dealers. The trustee had a statutory responsibility to watch over the interests of investors. Marketing practices came under increased regulatory oversight, and there was a high level of emphasis on mandatory disclosure.

For those of us who were there, the late 1980s were the time not only of shoulder pads and long lunches, but also of the Companies Code, the Corporate Affairs Commissions, offers to the public, checklist prospectuses, approved deeds, and trustees' consents. (Was this the time when the phase 'this page has been left blank intentionally' first entered the funds management lexicon?)

In January 1991, the landscape began to shift under our feet, with the commencement of the Corporations Law (bringing with it the death of the checklist prospectus) and the establishment of the ASC under Tony Hartnell. By July that year the unlisted property trust sector had failed comprehensively, and urgent amendments to the Corporations Law suspended withdrawals and provided for the restructuring of the (direct and indirect) property component of the industry. By 1992, ALRC and CASAC had begun their inquiry that would lead eventually, in 1998, to the complete revision of the basis for regulation, and move to the 'single responsible entity' structure under the *Managed Investment Act 1998*.

The journey from ALRC/CASAC Discussion Paper 53 to the commencement of the MIA is a book in itself. Part 5 tells some of the story.

Even before the MIA commenced, the Wallis Committee's Financial System Inquiry in 1997 had flagged further wide ranging changes to the regulatory framework. These eventually came to fruition in the *Financial Services Reform Act 2001*, with its changes to the licensing regime for responsible entities, and to mandatory disclosure and the regulation of sales and marketing practices. The first years of the new century have also seen the development of specific regulatory responses to new developments and structures in the industry, such as stapled securities and platforms. These are considered in Part 5.

This report, presented to the annual general meeting of IFSA in October 2005, is called 'preliminary'. The work undertaken so far clearly indicates that there is immense scope for further research. We hope that this report will provide both the impetus and the framework for that further work. Comments, additions, corrections and photographs will be gratefully received and, where appropriate, incorporated into later versions of this paper. They can be sent to Professor Hanrahan at p.hanrahan@unimelb.edu.au.

2. Overview: 'For Security'

Nineteen fifty-five saw the first legal recognition that something new was going on in the Australian financial world. The 1955-56 amendments to the Victorian Companies Act first announced, at least in an independent legal sense, the arrival of 'prescribed interests' (as they then were called) as a distinct investment type. The 1950s had seen a boom in unit trusts. Economic and financial commentators spoke of co-operative investment, or later of managed funds. But we have to look back before the Second World War to understand the establishment of the Australian managed funds industry.

The beginnings

During the five minutes of economic sunshine that emerged between the Depression years of the early 1930s and the financial gloom that occasioned the movement to world war, a Sydneysider began plans to launch the First Australian Unit Trust. Adopting the motto 'For Security', Hugh Walton founded Australian Fixed Trusts (AFT) as his management company and publicly offered units in the First Australian Unit Trust late in 1936.

His inspiration had been the new wave of British unit trusts which had emerged since 1931 (a form of investment which in August 1936 had just been subject to a favourable English Board of Trade review) after the concept of co-operative investment vehicles of this sort had revived there under the influence of the American mutual funds of the roaring 20s. The earliest unit trusts in the UK had invested mainly in government securities, as was the preferred choice of small investors in the 1860s and 70s, and obtained diversity by

investing in the bonds issued by various foreign governments. Adopted in the US after the First World War, the American incarnation of the unit trust, the mutual fund, added equities to this investment mix. Although many went to the wall with the crash of 1929 that signaled the beginning of the Great Depression, the oldest US mutual funds were founded in the 1920s and ultimately were the main inspiration for Walton's AFT.[5]

Walton and his backers had competition, however, in the form of the early Australian investment companies. The first was founded by J B Were & Son in 1928 and by 1936 Were's were supporting three more, through the investment companies that would later comprise the Capel Court group.

---

[5] *First Australian Unit Trust: A fixed trust type of investment*, Sydney: AFT, [1936]; *Report from the Statute Law Revision Committee on Amendments to Deal with Fraudulent Practices by Persons Interested in the Promotion and/or Direction of Companies and by Firms*, Melbourne: Parliament of Victoria, 1954 (= *Votes and Proceedings of the Legislative Assembly*, Session 1954-55, vol. 1, pp. 735-886), esp. pp. 10-11, 105-10 and 141-51 (744-45, 839-44 and 875-85); *Companies Act 1958* (Vic.), sect. 63; T Tormasi, 'Co-operative Investment in Australia', M.Comm. thesis, University of Melbourne, 1966 [unpaginated], chapter 1. For an assessment of the booming British industry of the day, see C L Rosenheim and C O Merriman, *Unit Trusts and How They Work*, London: Pittman, 1937.

Walton's First Australian Unit Trust was 'fixed' in that its deed and prospectus declared it would only run until 1951, and also in terms of its investment strategy. The deed set out not only what sort of equities the trust would invest in, it even specified which particular company stocks these would be.

Proclaimed by its prospectus a 'modern method of scientific investment', it seems a primitive instrument today; the first AFT advertisements predicted annual returns of 10% for unit-holders, though, their only outlay, on top of the price of each unit, a 7.5% entrance fee. In 1951 when the First Australian Unit Trust had wound up it had only returned an average of just under 7.7% a year. But it had thrashed both its broker-based competitors (not to mention fixed interest), survived the fiscal insecurities of WWII, and the unit trust concept rapidly became the favoured choice for pooled investment.[6]

---

[6] *The House of Were 1839-1954*, Melbourne: J B Were & Son, 1954, pp. 333, 343; G M Carson, 'Unit investment trusts', *Australian Accountant* 30 (1960): 88-94; *Silver Anniversary Report*, [Sydney]: AFT Group, 1961, p. 3; Tormasi, ch. 2.

THE FOLLOWING ARE THE INVESTMENTS WHICH CONSTITUTE EACH UNIT

of

FIRST AUSTRALIAN UNIT TRUST

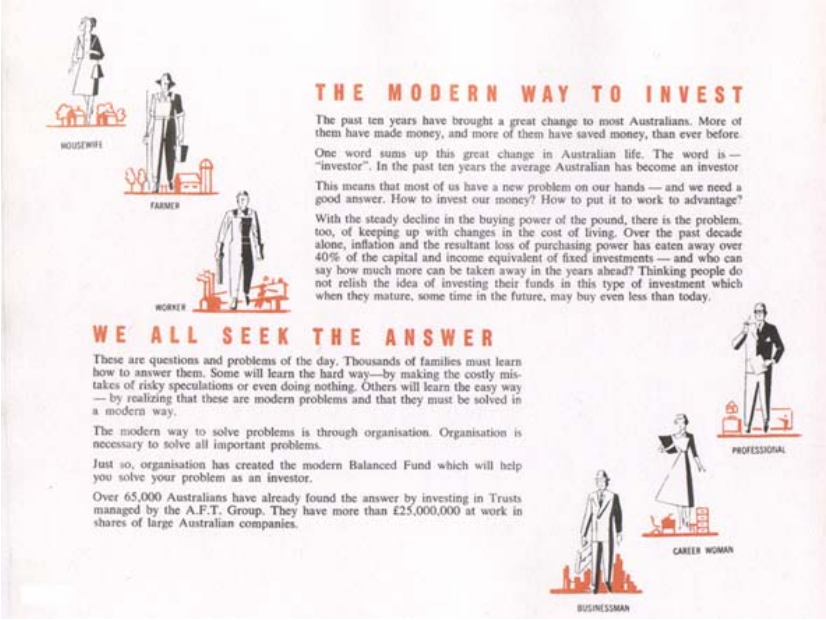
Commercial Bank of Australia Ltd.	200—10/–	Ordinary	shares
The Adelaide Steamship Co. Ltd.	50—£1	,,	,,
Tooth & Company Limited	100—£1	,,	,,
Associated Newspapers Ltd.	50—£1	,,	,,
Australasian Paper & Pulp Co. Ltd.	50—£1	,,	,,
Australian Glass Mftrs. Co. Ltd.	25—£1	,,	,,
Broken Hill Proprietary Co. Ltd.	50—£1	,,	,,
Colonial Sugar Refining Co. Ltd.	5—£20	,,	,,
David Jones Limited	50—£1	,,	,,
Drug Houses of Australia Ltd.	50—£1	,,	,,
Dunlop-Perdriau Rubber Co. Ltd.	100—£1	,,	,,
Electrolytic Zinc Co. of A/sia Ltd.	100—£1	,,	,,
General Industries Ltd.	150—12/6	,,	,,
Goldsbrough Mort & Co. Ltd.	50—£1	,,	,,
Henry Jones Co-operative Ltd.	50—£1	,,	,,
Kandos Cement Company Limited	50—16/–	,,	,,
Sargents Limited	50—£1	,,	,,
W. R. Carpenter & Co. Ltd.	50—£1	,,	,,
Yarra Falls Limited	100—£1	,,	,,
Broken Hill South Limited	50—£1	,,	,,

The emergence of a unit trust industry was also an early sign that the centre of Australian finance was moving away from Collins Street. The capital had moved from Melbourne to Canberra in the 20s; now innovation in the financial world had begun to become a Sydney story. Although the Melbourne-based broking firms such as the venerable J B Were & Son and the younger Ian Potter & Co had some presence in co-operative investment (and the 'Mexican' Federal Treasurer R G Menzies had lent his name to Were's Capel Court in 1936), entities like AFT were generally sponsored and had emerged from the non-brokerage, non-bank, almost non-establishment interstice out of which the early merchant banks and other financial intermediaries would soon grow. AFT's main competitors were not brokers in the 1950s, but other financial services entrepreneurs such as small-time

interests who arranged put options and calls or advised on investment matters. For example, one other significant co-operative investment group that appeared at this stage, Universal Flexible Trusts (UFT), was founded in Melbourne in 1955 by interests led by the actuary and financial advisor A M Parker.[7]

Funds under management were soon growing at an extraordinary rate. Although coming off a very low base of 1.5 million Australian pounds (A£) at the end of WWII, by 1960 AFT and its rivals were administering A£50 million (with about 80,000 individual investors), and by 1965 this number had more than doubled again to A£125 million. A substantial industry had been born and since the late 50s it had even been represented by its own industry group, the Unit Trust Association of Australia.

[7] Tormasi, ch 3. Parker was still active in the industry from his office in South Yarra as late as the 1980s.



THE MODERN WAY TO INVEST

The past ten years have brought a great change to most Australians. More of them have made money, and more of them have saved money, than ever before.

One word sums up this great change in Australian life. The word is — "investor". In the past ten years the average Australian has become an investor.

This means that most of us have a new problem on our hands — and we need a good answer. How to invest our money? How to put it to work to advantage?

With the steady decline in the buying power of the pound, there is the problem, too, of keeping up with changes in the cost of living. Over the past decade alone, inflation and the resultant loss of purchasing power has eaten away over 40% of the capital and income equivalent of fixed investments — and who can say how much more can be taken away in the years ahead? Thinking people do not relish the idea of investing their funds in this type of investment which when they mature, some time in the future, may buy even less than today.

WE ALL SEEK THE ANSWER

These are questions and problems of the day. Thousands of families must learn how to answer them. Some will learn the hard way—by making the costly mistakes of risky speculations or even doing nothing. Others will learn the easy way — by realizing that these are modern problems and that they must be solved in a modern way.

The modern way to solve problems is through organisation. Organisation is necessary to solve all important problems.

Just so, organisation has created the modern Balanced Fund which will help you solve your problem as an investor.

Over 65,000 Australians have already found the answer by investing in Trusts managed by the A.F.T. Group. They have more than £25,000,000 at work in shares of large Australian companies.

The late fifties were a particularly innovative time. In 1958, after a period of declining bank profits, the purchase by the Bank of NSW of Units Trusts Ltd (the second-oldest management company – it had been formed in Brisbane in 1938) saw the entry of the trading banks into the industry. The Bank of NSW remained by far the largest bank involved in unit trusts from 1958 until the early 1980s, and had set up its own management company, The Wales Unit Investment Ltd, that year. The Wales trusts (which like those of UFT and now AFT too) were styled flexible as opposed to the older fixed trusts, and soon represented AFT's main rival.

Other trading banks also became involved in co-operative investment products, first as partners in management companies: most prominently the English, Scottish and

Australasian bank (which was to merge with the ANZ in 1970) with a 40% share in Federal Trust Ltd late in 1958 (raised to 100% in 1961). The ANZ (which had emerged from the union of the Bank of Australasia and the Union Bank of Australia in 1951) also founded its Public Retirement Fund – Self-Employed in 1959, the oldest managed fund still extant (although now closed) today.[8]

The entry of the trading banks into funds management, belated as it may have been, no doubt lent respectability to the young industry, which despite a slight decline in incoming funds over 1956/57 (following a poor year on the stock exchanges), continued to expand and innovate. In 1959 Ian Potter & Co launched the Australian Capital Fund, the first Australian US-style mutual fund[9] with the backing of the Commercial Banking Company (CBC) of Sydney.

---

[8] Tormasi, ch. 2; R F Holder, *The Bank of New South Wales: A history*, 2 vols, Sydney: Angus & Robinson, 1970, II, pp. 918-19. AFT, however, had already developed a distribution agreement with the Commercial Banking Company of Sydney by the late 1950s.

[9] Mutual funds, although not operating with a deed and trustee structure, were often perceived as much the same as unit trusts and are often conflated with them in the literature of the time. Their main advantage was that, unlike unit trusts, they were not required to pay tax on retained funds, although they bore greater risk as they were unlimited liability companies.

The same year that saw the establishment of the first property unit trusts. The first was formed by Hooker Investment Corporation's Australian Land Trusts; firms like AFT soon followed suit with similar trusts of their own. Perpetual Trustees was the leading custodial organisation approached by management companies to hold funds' assets in trust at the time. The emergent industry was now recognised, too, by publications produced by the Commonwealth Statistician, providing scalar figures (albeit often only intermittent at first) going back to 1954.[10]

Similar booms in co-operative investment had occurred in the US and Britain, but sector-specific funds on British and American lines were slower to appear down under. The typical model during the 1960s was to offer growth, income or balanced ('midway') funds, and the larger players, like AFT and the Wales, offered up to a dozen or more choices of these. Even Were's started offering unit trusts and mutual funds as the 60s dawned – their Capel group, especially in the form of the Capel National Fund (CNF; founded in partnership with the National Bank of Australasia), eventually grew to represent the fourth-largest managed-funds group after AFT (since 1958 owned by merchant bankers the Development Finance Corporation), the Wales and Parker's UFT.

---

[10] Commonwealth Bureau of Census and Statistics, *Unit Trusts, Land Trusts and Mutual Funds, Australia*, Canberra: The Bureau, 1961-72; Tormasi, ch. 6. The trustees of the First Australian Unit Trust, however, were the Union Insurance Society of Canton.

Many of the original funds finished up in the 70s, their investors typically transferring their capital to a similar vehicle. But with open-ended funds becoming more common, unit trusts and mutual funds became increasingly flexible, with smaller funds now feeding into master funds, and different weightings of growth and income (from income-growth to growth-income) emerging. Mutual funds and property trusts remained small segments of the overall market at first though: about three-quarters of managed funds were held in equities in the early 60s, the rest in debentures, fixed interest, directly in property and from 1963 in mortgages too.

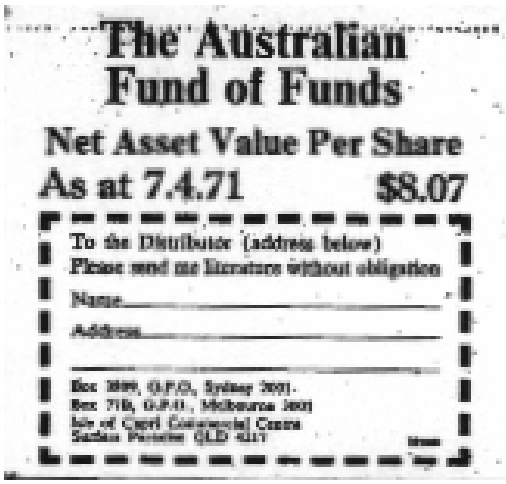
The slump

After the early boom, however, the industry went into a long period of decline as fund managers seemed no longer able to offer their investors the rates of return (advertised as double that of the savings banks) that had characterised the co-operative funds of the 50s and early 60s.

At the time, one of the main costs of managing a unit trust or mutual fund was advertising. The management companies had established distribution networks in the cities, suburbs and in many regional centres by 1960, and used print and radio advertising, as well

as direct marketing, to ensure inflow of funds.[11] (In fact AFT had even developed its own direct marketing firm, Australian Mailing Service, by the early 60s, as well as a partnership with IBM.) As entry fees were the main source of revenue, more attention often seems to have been given to marketing than funds management in some cases, and investors eventually left the sector as returns declined. Between 1965 and 75 investment companies regularly outstripped unit trust and mutual fund returns by almost 200% (averaging 15.6% versus 5.4% per annum for managed funds). The largest single fund from the period was the mutual fund managed by the British merchant bank Darling & Co, the Darling Fund (which had $7.8 million invested in 1978). A less successful mutual fund from the time, the Australian Fund of Funds, pioneered the 'manager of managers' approach to which it has lent its name.

[11] Copies of many of the early prospectuses and brochures like AFT's *Wise Investment for Today and Tomorrow*, [Sydney: AFT, 1951] or *The Secret of Safe Investment*, [Sydney: AFT, 1957] are held in the National Library in Canberra and the State Library of NSW.



Despite the fact that mutual funds generally outperformed unit trusts, the collapse of the Garretty group and its Dividend Fund in 1971 (shareholders remaining liable for over a hundred thousand dollars in its debts) ensured that the Australian mutual fund would eventually die out. The Garretty collapse was the biggest and most damaging scandal the industry had seen – investors' funds had been frittered away on speculative metals stocks during the late-60s minerals boom.[12] Other industry-specific funds such as natural resources trusts had also developed by this time, but had been managed more conservatively. Yet the

[12] P Delwood, 'Times a-changing for mutual funds', *Australian Stock Exchanges Journal* 2/1 (1973): 36-38; R Ackland, 'Garretty liquidation hits "innocent victims" MP says', *Australian Financial Review* May 30, 1973, pp. 8-9.

continued low returns had eroded the total funds under management by the now-mature industry, with its lowest ebb coming in 1970, a year in which the majority of equity funds produced negative returns. Advertising by unit trusts had been restricted by widened anti-share-hawking provisions and some of the funds had been financially exposed to company collapses. Nonetheless, by any measure, especially when compared to the stock market or the dividends of the leading companies of the time, the shrinkage of total funds under management reveals an industry in considerable decline.[13]

Unit trusts retreated from the share market in the late 60s, enlarging their property portfolios at the expense of equities to such an extent that the equity : property ratio had been all-but reversed by the end of the co-operative investments trough (78.5% : 9.4% in 1962 versus 15.7% : 72% in 1978 – the rest was invested in fixed interest, mortgages and debentures). Funds positioned for capital growth, even though they were outperformed by income funds, were the dominant structure.

Of course the long post-war boom had well and truly ended by 1975; Australia had entered the period of world 'stagflation' (stagnant growth, high inflation) that followed the

---

[13] M J Leslie, 'The Performance of Equity-based Unit Trusts and Mutual Funds in the Period 1968-1975', MBA thesis, University of Queensland, 1976; G N Robson, 'The Investment Performance of Unit Trusts and Mutual Funds in Australia in the Period 1969 to 1978', M.Ec. thesis, Monash University, 1981, digested in *Accounting and Finance* 26/2 (1986): 55-79.

inflationary oil shocks of the 1970s and the decoupling of the US dollar from the gold standard by the faltering Nixon administration. A stock-market slump in 1969 had been followed by a property boom, one that the Whitlam Government deliberately targeted in 1973 by inducing a credit squeeze. A similar approach had been used successfully by Menzies to curb the inflation outbreak of the early 1950s. But in 1974 the largest stock-market crash since 1929 occurred, and a property crisis soon ensued.[14] Most of the trusts and funds were small at the time, with market values of under $2 million and averaging only about 1000 investors each (the largest fund, the AFT Saving Trust, having 3692 different unit-holders at the end of 1978).

The managed funds industry seemed already to be about as low as it could go, however, and mostly remained unaffected by the collapses of property groups, financiers and eventually even the CBC (which subsequently merged with the National Bank of Australasia, giving birth to the National Australia Bank in 1978).

The eighties

Signs of recovery, though, emerge in the late 1970s. By 1978, funds under management had recovered to A$488.3 million. This upsurge provided the basis of the confident new

---

[14] Leslie, p. 8; Robson, pp. 66-67, 140-43; T Sykes, *Two Centuries of Panic*, Sydney: Allen & Unwin, 1988, pp. 434ff.

industry that emerged in the 1980s and saw the arrival of many new brands whose names still decorate the industry today

In 1972 the century-old Trustees, Executor & Agency Co (TEA) of Melbourne decided to expand out of its labour-intensive and stolid trusteeship business and began discreetly offering a money-market investment service to some of its clients. Too stingy to produce a prospectus, few others in the industry realised the potential that TEA had tapped for pooled investment in the money markets at the time. One who did was Keith Halkerston of Potter Partners (the old Ian Potter & Co) who sold his idea to the British merchant bank Hill Samuel Australia. The first official Australian short-term money market had been founded in 1959, the commercial bill market six years later. The first public managed-fund facility of this type had been established by Merrill Lynch in the US in 1975; in 1980 Hill Samuel launched the first Australian cash-management trust (CMT), re-branding it the Macquarie CMT upon the formation of the Macquarie Bank in 1985.[15]

---

[15] J M Freemantle, 'The Growth of Non-Bank Financial Intermediaries and their Impact on the Trading Banks in the Australian Money Market', M. Admin. thesis, Monash University, 1971; R J Guminski, 'Cash Management Trusts: A Comparative Analysis', MBA thesis, University of Melbourne, 1982; P Hardy, 'Review of Australian Cash Management Trusts with Special Reference to the Hill Samuel Management Trust', MBA thesis, University of Melbourne, 1984.

The main early competitors of Hill Samuel/Macquarie in the CMT market were mostly other merchant banks. The first merchant banks had appeared at the end of WWII, the Australian ones, like Sir Ian Potter's Australian United Corporation (AUC), generally as bank or brokerage-related interests. Foreign (mostly British) merchant banks had followed in the 1960s – Darling & Co, Hill Samuel and Banker's Trust (BT) all arrived at that time, and the latter, an American subsidiary, had especially made a name for itself in the late 70s after it had moved into the superannuation end of the managed-funds market. The early CMTs that followed were set up by firms like AFT, Were Securities, AUC and foreign banks (Bank of America, Royal Bank of Canada). One, the Equitable Group CMT, even faced a run in 1982 and had to be bailed out by its parent, QBE.

A consolidation also soon became apparent as the local Bank of America (BA) subsidiary bought out several of its competitors and the life offices moved into the CMT market. The largest of all, the Macquarie CMT (whose funds under management are $10 billion today), has had its early success ascribed not just to being first or to its returns, though, but to the bank's marketing of its CMT to brokers and other investment advisors.[16]

A newly booming AFT soon became inundated by rivals. In fact the ANZ's merchant banking arm bought the AFT group in 1983, much to the annoyance of many in

---

[16] M T Skully, *Merchant Banking in Australia*, Melbourne: Oxford University Press, 1987, pp. 18ff., 163-75; Guminski, pp. 65-66.

AFT's associated network of agents. Unlike Capel Court (acquired from National Mutual in 1991 by the ANZ who have retained the brand), the unit trust pioneer would soon become 'AFT who?'.[17]

On the other hand, firms such as Estate Mortgage, although still small, had entered the industry in the late 70s, joining the better-established property firms such as the Hooker Group and Lend Lease. The first funds manager-owned companies emerged; Clayton Robard was founded by former AFT men Bruce Bird, Dietmar Kucha and Ross Smyth-Kirk in 1980.

The Bank of NSW merged with the Commercial Bank of Australia to become Westpac in 1982. BT Australia also entered the retail market that year in response to retirees whose superannuation funds they had managed so profitably – the Chris Corrigan-run Young Turk of the super industry soon found itself the darling of finance journalists.[18] PP Management (the investment arm of Potter Partners), Jardine Fleming and National Mutual began offering the first international funds, resources trusts also boomed and by

---

[17] T Collins, 'Adapting – and surviving – in an everchanging world', *Money Management* 1 Apr, 1999, p. 17. Some of AFT's trusts, although closed, still appeared on the *Money Management* tables until 2001.

[18] Most reverently, G Haigh, *One of a Kind: The Story of Bankers Trust Australia 1969-1999*, Melbourne: Text Publishing, 1999 (see pp. 124-26 on the launch of their retail funds).

1984 unit trusts were being launched to support Jupiter's Casino and the Portland aluminium smelter (an otherwise joint Victorian Government / Alcoa-financed operation). Nineteen eighty-six even saw the launch of the first 'ethical' fund, by Friends Provident (acquired by Tower Life in 1993).[19]

The Unit Trust Association of Australia (UTAA) had also been re-founded in 1983 after its older namesake had disappeared during the managed funds trough, the same year as the Australian Investment Planner's Association (AIPA) was also formed.

The UTAA's first figures indicate that property (and mortgages) were still the main focus of co-operative funds managers at the time – although CMTs had quickly come to outstrip equity and mortgage trusts, the ratios of equities : property : cash were 55.6% : 12.9% : 31.6% by the middle of 1984 in what was now a $4.7 billion dollar industry. Similar booms had occurred in Europe and North America, but not off so low and stagnant a base. In fact the despite the alarm of many politicians at the time, the Australian experience had been quite other than in the UK and the US where unit trusts and mutual funds had never tasted the lows that Australian funds did.

---

[19] S E Crook, 'Innovative Funding: First National Resource Trust', MBA thesis, University of Melbourne, 1986; R Knowles (ed.), *Ethical Investment*, Marrickville: Choice, 1997.

ANZ's acquisition of AFT signalled a shake-out in the suburban advising market, however, the stock market association's *Personal Investment* magazine was launched in 1983 at the same time as the UTAA's *Unit Trust News*, and by the end of the 80s firms such as ASSIRT and Independent Funds Research had begun ranking retail funds (the former initially for *Money Management*, founded by David Koch in 1987, the latter for *Personal Investment* after its first editor Koch had left it) in a similar manner as the actuarial consultancy Campbell & Cook (which had been bought by the US employee benefits consultants William M Mercer in 1984) had pioneered for superannuation in the 70s.[20]

Television advertising for managed funds first appeared in the early 80s, too. But perhaps a more obvious development for the industry came with the election of the Hawke Government. Sir Keith Campbell had been appointed by the Fraser Government to head a Federal inquiry into the financial system in 1979, his report being handed down in 1981.[21] Its release marked a substantial reformation of the financial services industry that began with the abolition of restrictive investment rules (including limits on offshore investment),

---

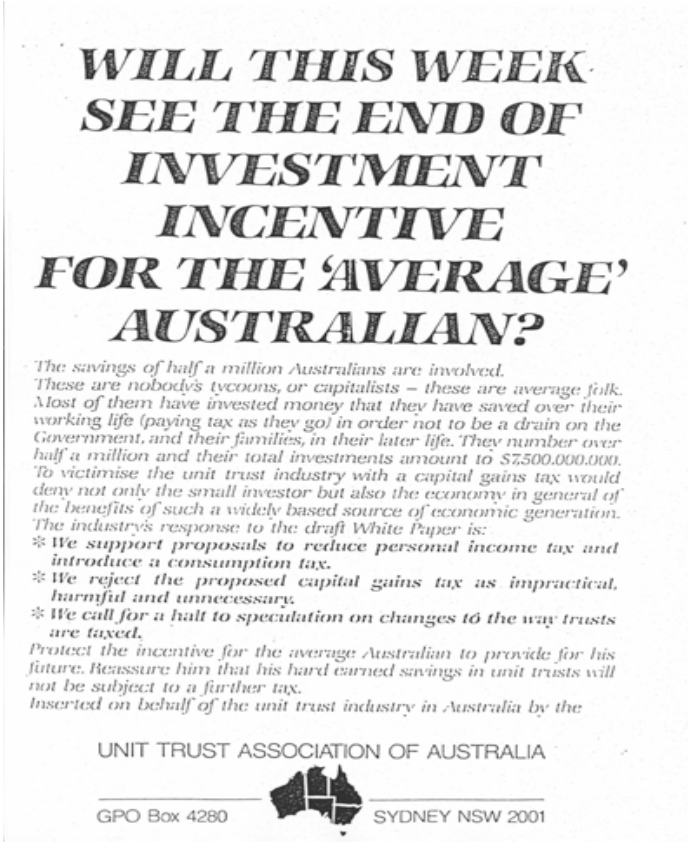
[20] *Personal Investment*, [Melbourne]: David Fallick, 1983-1999; *Unit Trust News*, Sydney: UTAA, 1983-89; *Money Management*, Melbourne: Money Management, 1987ff.

[21] *Australian Financial System: Final Report of the Committee of Inquiry, September 1981*, Canberra: Australian Government Publishing Service, 1981.

the formal introduction of foreign banks (BT were even forced to open street-level offices at the Reserve Bank's behest), the floating of the dollar, as well as the merger of two of the largest life offices, National Mutual and Temperance & General (T&G) in 1982, the acquisition of the Mutual Life and Citizens Assurance Co Ltd (MLC) by Lend Lease (50% 1982; fully in 1985) and the foreign take-over of another, Mercantile Mutual, by the Dutch ING Group, also in 1982/87.

A bigger challenge to managed funds at the time seemed to emerge, however, with the floating by Federal Treasurer Keating of a tax reform white paper in 1985. Its proposal of a capital-gains tax (CGT) and changes to the taxation treatment of trusts threatened to kill off the unit trust – soon several trust-funded property developments were being reported in the financial press as teetering on collapse in light of the proposed changes. The UTAA quickly formed an Australian Unit Trust Defence Committee comprising the UTAA (which included the older managed fund players – AFT, Hooker, Westpac and the like) and other management companies who had not yet recognised the value of an umbrella organisation. A fighting fund was developed to lobby Labor politicians against the threat of the double-taxing of trusts that seemed implicit with the proposed new CGT; the defence committee also launched a public press campaign on behalf of its 500,000 unit-holders,

winning some concessions such as imputation to lessen the effect on unit-holder returns and saving the burgeoning industry from being taxed out of existence.[22]



WILL THIS WEEK SEE THE END OF INVESTMENT INCENTIVE FOR THE 'AVERAGE' AUSTRALIAN?

The savings of half a million Australians are involved.
These are nobody's tycoons, or capitalists – these are average folk. Most of them have invested money that they have saved over their working life (paying tax as they go) in order not to be a drain on the Government, and their families, in their later life. They number over half a million and their total investments amount to $7,500,000,000. To victimise the unit trust industry with a capital gains tax would deny not only the small investor but also the economy in general of the benefits of such a widely based source of economic generation.
The industry's response to the draft White Paper is:

- **We support proposals to reduce personal income tax and introduce a consumption tax.**
- **We reject the proposed capital gains tax as impractical, harmful and unnecessary.**
- **We call for a halt to speculation on changes to the way trusts are taxed.**

Protect the incentive for the average Australian to provide for his future. Reassure him that his hard earned savings in unit trusts will not be subject to a further tax.
Inserted on behalf of the unit trust industry in Australia by the

UNIT TRUST ASSOCIATION OF AUSTRALIA

GPO Box 4280 SYDNEY NSW 2001

The CGT campaign saw the UTAA confirmed as the main lobby group for managed funds providers; the separate association for CMT managers was rolled into the UTAA, other

[22] 'Capital gains – the tax that benefits no-one', *Unit Trust News* 3 (1985): 1; IFSA archive box 10: Taxation Reform (1985).

industry stragglers soon came to the party, and independent UTAA 'chapters' were set up for mortgage, property, equities and cash-management trusts. The UTAA soon also struck up a productive relationship with the National Companies and Securities Commission (NCSC) which culminated in the late 80s in actual secondment of then UTAA executive officer Peter Hutley to the NCSC.[23]

The 1980s would prove a time of fundamental change in the life insurance industry too. The life offices, although dominant in super and other retirement-linked products, were slow to become involved in retail funds management proper. They had ignored the unit trust movement in the 1950s and 60s, merely adding complexity (e.g. in the form of bonus provisions) to their life assurance and endowment policies. AFT had been offering life insurance supplements to its superannuation vehicles since the 60s, but since the early 80s, the unit trust industry had been expanding at a rate of 40% per year. Insurance bonds had provided some alternative to investment in managed funds, but National Mutual, for example, although it had acquired Capel Court as part of the T&G merger, only showed it was serious about attracting retail investors in 1985 with the founding of National Mutual Funds Management. The re-branded Capita (the old City Mutual, which had bought the Royal Bank of Canada's Australian CMT some years earlier), however, now moved aggressively into retail managed funds.

---

[23] S Hoyle, 'UTAA has cause to co-regulate', *Money Management* July 6, 1989, p. 14.

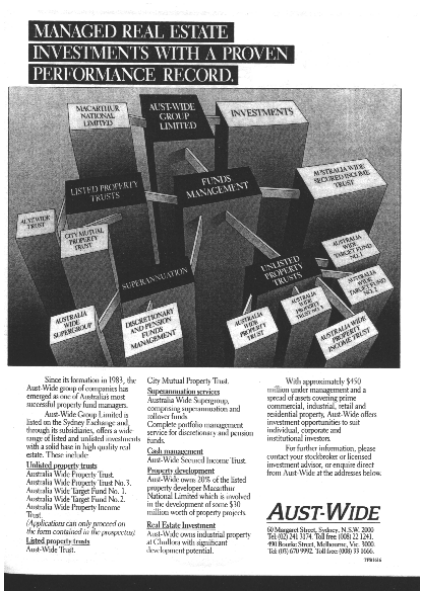
National Mutual, its much larger rival the AMP Society and insurers such as Legal & General and Prudential also moved to try to tie up financial planners and public accountants as the older funds managers seemed to be increasingly unable to compete. BT won huge kudos when the stock market crashed in 1987 after its managers had built up defensive positions against the end of the long 1980s bull equities run. Capita, on the other hand, imploded after its post-crash expansion into capital-guaranteed products, and in 1990 was absorbed into Lend Lease's MLC. National Mutual also suffered from its stray into capital guarantee; but the swallowing of Capita by MLC occasioned the first of the demutualisations that were to be a feature of the 1990s.[24] A far more spectacular failure of a funds manager occurred in the property sector, however, one that would outstrip all of the failures of previous decades.

TEA has the honour of being the first Australian trustee company to fail. From 1981 it had expanded its cash-management accounts and begun speculating in property. The year after the short 'bottom-of-the-harbour' recession of 1982 (which crippled the Fraser Government), TEA also collapsed and its managing director was subsequently gaoled. Similar gaol terms would in time be served by the controlling interests of Estate Mortgage, and the property collapse of 1989-90 would claim a second venerable trustee company, the Estate Mortgage trusts' custodian Burns Philp Trustee.

---

[24] 'Demutualisation in Australia', *Reserve Bank of Australia Bulletin*, January 1999, pp. 1-10.

Estate Mortgage is perhaps best remembered for its ‘giraffe’ TV campaign of the late 1980s which promised low risk and high returns. The Estate Mortgage trusts boomed as publicly as Christopher Skase and Allan Bond, and collapsed just as spectacularly in 1990. Burns Philp Trustee had even sued financial planners Moneylink who had publicly questioned the group’s finances in 1989. But a run on Estate Mortgage in 1990 saw first the management company, then the trustees sacked, and many thousands of investors, mostly retirees, have to go to court to retrieve their money.[25]



[25] T Sykes, *The Bold Riders*, 2nd ed., St Leonards: Allen & Unwin, 1996, pp. 33-55, 349-73. Investors were able to recover about $150,000 from the insurers of Burns Philp Trustee.

The fastest growing mortgage trust managers in Australia are also the biggest.

The Australian Bureau of Statistics recently released its Public Unit Trust survey for June 1989.

The figures prove that Estate Mortgage is both the fastest growing and the biggest mortgage trust manager in Australia.

For example, since the June 1988 quarter, Estate Mortgage has grown by a staggering 80%, compared to an industry growth of only 34%.

And in the June 1989 quarter, while the rest of the industry actually lost $21.8 million, we generated a nett increase of $43.8 million.

With such amazing growth, it's not surprising Estate Mortgage is No.1.

After 14 years in the industry we now enjoy a 37% market share and have trust assets approaching one billion dollars.

All this has been achieved simply by delivering our investors consistently high returns, that are backed with top security.

We invest funds in registered first mortgages over prime income-producing properties.

And we only lend up to two-thirds of the value of a property.

Furthermore, we're independently audited each quarter, and have proved to be a well-established and secure mortgage trust manager with an outstanding performance record.

What more could your clients ask for?

For more information, and a supply of Prospectuses essential for investment, please call John Smith or Michelle Taddeo at Estate Mortgage on (02) 221 8500.

Estate Mortgage

High returns. Nice and safe.

80%

GROWTH RATE
April 1988 to June 1989.

Similar runs threatened to bring down the entire unlisted property trust sector and provoked a Federal Government freeze on unit redemptions. Another property industry bull, Aust-Wide also collapsed (in 1992); the unlisted sector would ultimately be destroyed, most funds, chasing the liquidity afforded by share-market listing, transformed into listed property trusts (LPTs) or merged or both. The Estate Mortgage collapse was perhaps the most public failure by a funds management company and unit trustee – and unlike the failure of the Garretty group in the 1970s, of a scale no politician could afford to ignore.

The introduction of the new Federal Act in 1998 was particularly influenced by the collapse of the unlisted property trusts; despite the regulatory work of the NCSC and the UTAA, a new legislative regime was clearly required to safeguard the interests of investors.[26]

The late 1980s saw several other developments that were to have important repercussions for the industry today. The new superannuation legislation of the late 1980s led directly to the establishment of the first (exogamous) master trusts as smaller super fund trustees sought expertise and economies of scale. The days of defined-benefit super schemes soon went the way of many of the bundled life assurance-plus products, and direct accumulation – annual percentile super returns – became a part of everyday working life.

The nineties and now

An increasing sophistication among consumers put added pressure on funds managers to offer some level of investor control, choice and responsibility. The 1987 stock-market crash predictably led to another run of capital out of equities into property, and balanced products

---

[26] Hence the first Australian Law Reform Commission (ALRC) offering, the issues 'paper' *Collective Investment Schemes* (Issues paper 10), Sydney: Australian Law Reform Commission, Companies and Securities Advisory Committee, [1991], leading to a second 'paper' *Collective Investment Schemes*, (Discussion Paper 53), [Sydney]: Australian Law Reform Commission, Companies and Securities Advisory Committee, 1992, and thereto their 'report' *Collective Investments: Other People's Money* (ALRC Report 65), Sydney: ALRC, 1993.

had begun to decline in popularity after asset consultants such as Towers, Perrin, Foster & Crosby had begun advising their super clients to invest in an array of sector-specific wholesale funds. Increasing consumer demands at the retail level meant the development not just of a plethora of new investment handbooks, but also an increasing movement towards the master trust structure as a new boom followed the end of the early 1990s recession, the one that treasurer Keating at the time had floridly dubbed 'the recession we had to have'.

Mr Keating's J-curve did finally eventuate, but his government proved less durable. The old AIPA, which had since been re-badged as the Australian Society of Investment and Financial Advisors finally emerged as the Financial Planning Association in 1992 and long-standing industry maverick (and former AFT Queensland manager) Austin Donnelly founded the Australian Investors Association in 1991. As returns rebounded from the early 90s gloom, however, the number of funds boomed, the LPT market especially so (albeit the latter consolidating somewhat after 1999). Index funds had already emerged by the 1980s as well as an ever-increasing number of sector-specific trusts; boutique managers now began to make their presence felt as Portfolio Partners and Platinum Asset Management began to stake out ground that had first been prepared by Clayton Robard in the early 80s.

The new regulatory arrangements in MIA commenced on 1 July 1998. One of the major questions to emerge from the Estate Mortgage and Aust-Wide collapses had been over the role of trustees. The UTAA (which had been re-branded in 1991 as the Investment Funds Association, IFA), representing the management companies, had begun to see the role of trustees as mostly redundant from the early 90s and pushed for the establishment of

a single responsible entity (RE), much as had occurred in master trust super in 1993.[27] The Trustee Companies Association, naturally, disagreed, and a public spat between representatives of the trusteeship and management industries had even spilled over into the media by the mid-1990s. The single RE regime would be adopted regardless in 1998; the dual legal structure was abolished, reflecting a view that trustees, despite the high legal (and public) regard implied by the term, had often failed in their custodianship roles.[28]

That same year also saw the Investment and Financial Services Association (IFSA) formed (with the encouragement of BT's Ian Martin) from a merger of the Life, Investment and Superannuation Association (which had been founded in 1905 as the Life Offices Association of Australasia), the Investment Funds Association and the Australian Investment Managers Association. IFSA would continue the role which had been assumed

---

[27] IFA Submission, Collective Investments Bill, 1996. BT's Ian Martin seems to have been particularly influential here: see R Bowerman, 'BT calls for a fresh approach to trusts', *Money Management* Febr 14, 1991, p. 1, and cf. also R Coombe (BT), 'The future role for public trustees in retail superannuation', paper delivered to the Rice Kacher Research Superannuation Seminar, 26 May 1993.

[28] *Managed Investments Act 1998* (Cth.). Graham Bradley of Perpetual was a particularly outspoken defendant of the trustee industry at the time, much to the consternation of many members of the IFA. The TCA had even commissioned research on the public view of trustees to back their case, the IFA countering with another survey which suggested substantial cost-savings under the new scheme.

by the old UTAA from the late 80s in continuing to build an environment of stability and co-regulation in the managed funds industry. But perhaps an even greater industry refiguring was still to come.

In 1999 Bankers Trust Co in the US was acquired by Deutsche Bank AG. Westpac baulked at the $2 billion offering price for the Australian arm of BT at the time, but felt forced to come to the party in 2002. In the late 1980s National Mutual had been blocked by the Federal Government from merging with the ANZ in line with the 'six pillars' policy designed to limit consolidation of the financial services and banking industry. After a period of some decline, and after selling its banking subsidiary (National Mutual Royal Bank) to the ANZ, in 1995 National Mutual demutualised and became part of the AXA group (which had emerged from a consolidation of French life offices some ten years previously). In its submission to the new financial services report (the Wallis 'daughter of Campbell Committee' inquiry) launched by the Howard Government, however, National Mutual warned that the banks were moving into parts of the financial services market National Mutual felt was the preserve of life offices.[29]

In 2001 the Commonwealth Bank announced its acquisition of Colonial Mutual First State (Colonial Mutual had itself absorbed several smaller players including the State Bank of NSW's First State in 1994) – the NAB would soon follow by buying MLC from Lend

[29] National Mutual Submission, Financial System Inquiry, 1996.

Lease. Westpac first bought Rothschilds Funds Management and then BT Australia. The ANZ (it had finally written AFT off its books in 1996) would then announce its joint venture with ING Australia following the re-branding of Mercantile Mutual ('Merc' in its cricket-themed ads) under its parent's name. In two years over 60% of the retail funds management industry (at least in terms of administration and distribution) had come under the auspices of the six pillars: AXA, the demutualised AMP and the four big banks.[30] The logic was simple, even if the fate of AFT after its acquisition by the ANZ suggested it might have been false: the new acquisitions would be able to attract funds through the use not only of their tied financial advisors, but also the branch-based distribution networks of the big banks.

Hedge funds also emerged as another stock-market plunge followed the collapse of the dot-com bubble, the original hedge concept having been developed by an Australian-born American financier, Alfred Winslow Jones in 1949. Exchange-traded funds (EFTs), a new (listed) form of the mutual fund, also appeared in 2001, the first EFT having been

---

[30] Actual manufacturing (i.e. investment selection/management) ratios do not correlate with administration and distribution, however, as, e.g., in 2004 NAB/MLC outsourced all of its manufacturing; see *ASSIRT Market Share Snapshot*, June quarter 2004, p. 4.

launched in Canada in 1989.[31] By this time, however, another product pioneered by Merrill Lynch in the US had already emerged: the wrap, essentially a development of the investor-choice concept (or investor-directed portfolio service, IDPS) to the point where an actual trust administrative structure no longer seemed necessary. (The first Australian wrap was offered by BT Portfolio Services in 1997 and BT/Westpac remains the leader of the field today.[32])

TV marketing was now spilt between the bank-aligned distributors such as ING and those, like Macquarie, whose advertising was increasingly targeted to both traditional retail customers and participants in their own and other provider's IDPS platforms. The old dual-headed (manager – custodian) unit trust structure was increasingly giving way to a three-tiered scheme, each level of which (manufacturing, administration, distribution) could now be operated by quite different entities, or at the manufacturing level, even a cohort of fund managers. Legally, providers of services at the administration and distribution levels might not be REs of a managed fund at all, and the custodial duties formerly held by the old trustees might also be outsourced. The international rise in off-shore investments through master trusts based in cities like Dublin and Luxemburg shows how well established this

---

[31] D R Gallagher, 'Investment Manager Characteristics, Strategy and Performance', dissertation, University of Sydney, 2002, p. 42.

[32] Haigh, pp. 441-42; *ASSIRT Market Share Snapshot*, June Quarter 2004, p. 10.

multi-layered structure has now become in Europe too, although, in contrast, the more integrated model of the old retail fund still seems to be dominant in the US. But a more obviously Australian export to the rest of the co-operative investment world now is the LPT, the Australian industry becoming the model for the real estate investment trust (REIT) regimes developed in many Asian countries since 2003, much as the extraordinarily successful Australian LPTs have expanded more tangibly into overseas markets in recent years.[33]

Foreign giants like Merrill Lynch and Goldman Sachs have moved into the market by acquiring assets which had formerly borne the names of the Australian financial-industry pioneers Sir Ian Potter and Jonathon Binns Were. Other foreign firms such as State Street and Deutsche Bank have similarly arrived and moved into the top ten of the manufacturing tables. Conversely, recent fiascos in the US and British managed funds industries have not been replicated in Australia: the partial self-regulation achieved through IFSA and its partnership with the old NCSC and now ASIC seems to have been particularly successful. Investors appear more demanding than ever, however, especially in light of the dot-com slump which reduced many fund returns to levels not seen since the 1970s. A more vigilant and federal corporate overseer, a far-less-antiquated regularity framework

---

[33] Y K Tan, 'Strategic Investment Issues for Listed Property Trusts', dissertation, University of Western Sydney, 2003.

and a continued industry focus on self-regulation promises a better outcome for the consumer if a new property-based crisis were to strike, much as in the early 70s and 90s. Politicians also understand that today exposure to the vicissitudes of financial markets is increasingly a feature of everyday Australian life, vicissitudes which Hugh Walton first tried to allay when he launched the First Australian Unit Trust, 'For Security' and investing the modern way.

3. Management, ownership and product

By all accounts Charles Allerdice could be irascible – he did not like it when the Development Finance Corporation (DFC) tried to meddle in the affairs of AFT. Allerdice, after all, had succeeded Walton as general manager of AFT after the war and had led the unit trust pioneer during its post-war expansion. AFT's new wave of marketing, which began in 1952, quickly established it as the industry leader – even Walton's other creation, Security Units (NSW), founded in 1947, could not compete as well for public funds (and was eventually acquired by AFT). In fact most of AFT's early competitors did not survive for long – only Melbourne-based UFT lasted into the 1960s and beyond.

Few of the early management companies were public – one of the few to float was Southern Unit Trusts (Vic), a spin off of Brisbane's Unit Trusts Ltd – so it is difficult to ascertain now who their main shareholders were. But many, such as AFT, were at first owned by the entrepreneurs (and their financial partners) who founded them until the DFC (which first opened its doors in 1953) and the trading banks began to move into the unit trust industry from 1958.[34]

[34] Tormasi, ch. 3.

Mutual funds, however, were more often a concern of brokers and other financial intermediaries involved in options and stocks. The Cowan funds, for example, were established in 1959 by Hearst-Cowan investment consultants, although their management companies were soon purchased by the brokerage house of A C Goode & Co. The first of the Garretty mutual funds was set up in 1964 by M D Garretty & Associates – later to fail so spectacularly in 1971. Dr Michael Garretty was a Melbourne-based geologist and options trader who by the late 60s was also running a market for unlisted shares (trading as Second Market Pty Ltd) in both Australia and London.[35]

Apart from the exception of the Bank of NSW and some limited presence of other trading banks such as English, Scottish & Australasian, though, the managed funds industry by the mid-1960s was essentially dominated by merchant banks and stockbrokers, apart from, of course, the property trusts.

Sir Leo Hooker founded the Hooker Investment Corporation in 1958, along with its subsidiary Australian Land Trusts, in order to manage the Hooker group's first property fund, and several other similar trusts also emerged at that time. These included the First National Buildings Trust founded in 1959, a year after its manager Lend Lease Corporation

---

[35] *Interim Report from the Senate Select Committee on Securities and Exchange, Part II: Minutes of Evidence* (1974 – Parliamentary Paper 98D), Canberra: Parliament of Australia, 1974, III, pp. 2388ff.

had been formed by Dick Dusseldorp with the encouragement of MLC. But the property trust concept did not prove particularly successful until the late 1960s, although it is not immediately clear why the idea took so long to catch on in a major way. Concerns were being voiced from the start as to how the actual value of a unit could be determined in a property trust and how liquidity might be maintained (equities trust managers ensured liquidity typically by redeeming units at the next day's stock prices).[36] But oddly enough it was at the very time that the Australian mutual funds were doing so well, during the late-60s nickel boom, that investors first began to flee from equities funds into property trusts.

Open-ended unit trusts had become common in the late 60s, in a move that seems equally odd from a financial perspective today. To that time, firms such as AFT were charging 8% or more as upfront fees and taking all their profits upon unit-holder entry. Provisions were made in the deeds of the early trusts to allow some skimming from dividends (perhaps 1%) – but these sums were only drawn upon as costs were incurred; there were no ongoing fund-management fees in the 50s or 60s. Much of the profit associated with running a management company, then, came when an old trust was wound up and unit-holders transferred to a new vehicle. The restrictions placed on advertising trusts with the passing of the Uniform Companies Acts of 1961-62 lessened ongoing costs, but hampered the procurement of new sales. After all, both the 1955-56 and 1960

[36] Carson, p. 89.

amendments to Victorian companies legislation were framed with an eye to wiping out share-hawking and high-pressure tactics in unit sales.

Allerdice himself had appeared before the Victorian Statute Law Committee in 1954, AFT claiming in their submission that reports of sharp practice in the industry were all attributable to more recently formed players – Allerdice seemed more interested in promoting AFT's First Victorian Flexible Trust whose deed was subsequently admitted into the parliamentary record. AFT only had offices in NSW at the time – by 1961, though, it had expanded into South Australia and Queensland; in fact by the mid-60s Austin Donnelly, AFT's Queensland manager, was teaching himself pidgin so he could speak the language of any potential investors his agent in Rabaul, in Papua New Guinea, could attract.

Product development at AFT was, however, a Sydney affair. The First Australian Unit Trust had evidently been intended to be a leaders fund; instead AFT's Selected Securities Fund from 1946 invested in the shares of 200 companies, and most of the other equities trusts of the time similarly tried to 'buy the index' (which of course was easier to do in the 50s as the state exchanges constituted a small fraction of what the ASX comprises today, both in worth and in number of listings) by investing in companies in most sectors. The first balanced fund (from 1957, also offered by AFT), though, seems to have been more of a gimmick than a deliberate attempt to offer some level of protection against a stock-market slump – moreover, the AFT funds of this type were exposed to several company collapses in the early 60s through the holding of debentures. Nonetheless it was income rates (typically of 5-6%) that were highlighted in advertisements at the time –

security was asserted in terms of investment spread (and with AFT, experience), and capital growth was mentioned only in vague terms in promotional materials for equities funds from the mid-1950s.[37]

By the late 50s, however, both unit trusts and mutual funds were being set up that specifically targeted growth or income, and by the early 60s combined capital and income returns of 12% and higher were being projected based on analyses of past performance (with capital gains being quite variable historically, dividend income varying from 4.67% to as high as 6%). AFT's First Australian Accumulation Fund, launched in 1957, was a growth fund, its projected return calculated by AFT's statistical department. But despite the claims of industry analysts, by the 60s capital gains had often almost become non-existent; many funds regularly paid dividends of 5-6% throughout the 50s and 60s, yet overall performance was usually embarrassingly low.

By the time the nickel boom eventuated and shares in companies such as Poseidon and MinSec were going stratospheric overnight, many unit-holders had tired of the managed-funds salesmen's cant and were withdrawing from unit trusts. While metal stocks soared, resources funds, which had first appeared in the mid-60s, failed – many unit trust

---

[37] AFT's Sixth Australian Flexible Trust (1955), for example, was touted as 'a secure investment spread over 100 Leading Public Companies representing nearly every sector of Industry' and promised returns of 'Between 5% and 6% p.a. with prospects of capital gains'.

managers, noting how profitable mortgages had become, looked instead now to property (both directly and indirectly), and almost accidentally sidestepped the equities crash that so damaged many of the mutual funds.

While the Cowan and Garretty funds were being crippled by losses of 50% or worse from trading in metals stocks (and associated concerns), in the early 70s investors in managed equities funds were transferring to trusts like Lend Lease's General Property Trust (which had just been floated in 1971 with $6m in shareholder capital subscribed). The collapse of the Australian mutual funds was concomitant with a series of financial scandals involving brokerage firms that first became apparent towards the end of the nickel boom – the whole securities industry had been slighted by the unacceptable excesses of more than just a few. As a bankrupt Dr Garretty later testified at the federal inquiry into the securities industry headed by Senator Peter Rae, there was no specific legislation concerning mutual funds, not to mention options trading, conflict of interest or the like.[38]

Liquidity had often proved a problem as many of the mutual funds had tended to see high churn rates during the boom. Moreover, several mutual funds seem to have been used by fund managers at the time as cash cows to finance other (often speculative) concerns without the managers feeling obliged to inform their investors of any change in investment

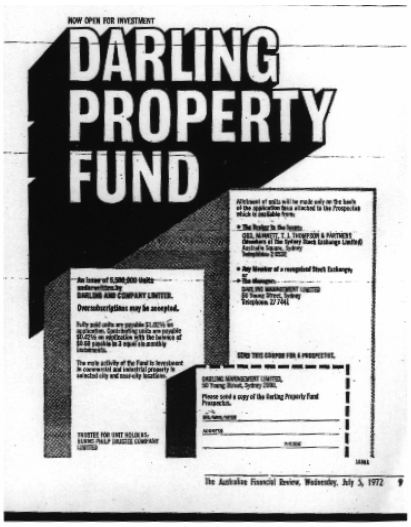
---

[38] *Interim Report from the Senate Select Committee on Securities and Exchange* II, 3, pp. 2394-95 & 2463.

strategy. Mutual funds and equities trusts had both been more than just tarnished by the securities scandals of the nickel boom – they had been decimated by it.

Some funds had managed to weather the early 70s gloom relatively unscathed, however; in fact Sir Ian Potter successfully launched a new mutual fund, patriotically dubbed the Future of Australia Fund, in 1972 (although this was before the reasons for the failure of the Garretty funds became widely known or the handing-down of the Rae report in 1974). The British merchant bank Darling & Co had also managed to keep returns in positive territory for its Darling Fund throughout the turmoil that saw in the new decade. But in 1972, the first foreign-owned presence in the industry launched the $5.6m Darling Property Fund, and although it was still active after the merger of its parent with another British merchant bank, Schroder & Co, in 1984, the Schroder Darling mutual funds were the last successful vehicles of their type to continue to trade (both funds being converted into unit trusts in the mid-80s) before the introduction of EFT's saw the reintroduction of mutual funds to Australia in 2001.[39]

[39] BT also still had custody of a mutual fund launched in the 70s, the Share Australia Fund, in the mid-80s.


NOW OPEN FOR INVESTMENT

DARLING PROPERTY FUND

DARLING AND COMPANY LIMITED.

Oversubscriptions may be accepted.

SEND THIS COUPON FOR A PROSPECTUS.

The Australian Financial Review, Wednesday, July 5, 1972 9

Some of the funds and trusts that had survived had shrunk so alarmingly by the late 1970s, however, that several had less than 100 investors and less than $200,000 in funds. Debentures and government bonds often seemed a better investment than managed funds at the time; while unit trusts were projecting a return of 10%, a 7% fixed-interest rate seemed to many investors to be much more prudent. In fact despite all their claims to security, the bank-run unit trusts were often the smallest (and hence least economical) – the National Bank's First National Flexible Trust had only $96,000 under management in 1978, the two already longstanding ANZ retirement funds had 70 (Self-Employed) and 94 (Employees) unit-holders respectively. The Bank of NSW remained the leader among the trading banks,

however, both in equities and in property trusts, and would remain so until the ANZ bought the DFC and thereby its star asset AFT in 1983.[40]

UFT, on the other hand, had been acquired by Alan Bond in 1974 who then sold the $2 UFT management company Universal Management Holdings on to the QBE insurance group; UFT was subsequently rebranded as Equitable (from the 'E' in QBE – QBE was formed in 1973 from a merger of Queensland Insurance and Bankers' and Traders' Insurance and Equitable Probate and General Insurance) as were its remaining trusts. The oldest two Equitable funds were equities trusts which had been launched at the end of 1976; the local subsidiary of the British merchant bank N M Rothschild & Sons had similarly launched its Javelin fund at the end of 1974. The main players in equities in the late 1970s, however, would remain Schroder Darling, the Bank of NSW and AFT.

The most spectacular early arrivals to the collective investments industry in the 1980s were the CMTs and especially that launched by Hill Samuel Australia in 1980. The Hill Samuel CMT was the main springboard for the 1985 launch of the Macquarie Bank and tasting success with their cash trusts soon saw brokers Potter Partners (as PP Management) and the Tricontinental merchant bank (two firms founded by Sir Ian Potter) begin to offer more conventional trusts, Potters in equities, including international stocks, Trico in both in property (the Property Trust of Australia funds) and in shares. Many of the

---

[40] Robson, p. 142.

other new names to funds management at the time were local subsidiaries of foreign merchant banks: BA Australia, GT, S G Hambros and Jardine Fleming. But these firms mainly offered CMTs and equities funds; property remained the domain mostly of Australian-owned concerns.

The managed funds boom of the 1980s was recognised at the time as significantly due merely to inflation rather than product innovations like CMTs and international equities funds – with double-digit inflation, property trusts regularly pulled in double-digit plus returns and firms such as Lend Lease, Hooker Corporation (as it was known from 1968) and new entrants such as Brick Securities (originally part of the Dawson Trevena property group) boomed.[41] Brick's first two trusts had been founded in 1973 and 74, Oceanic launched its first trust, a property fund in 1978, and Westfield floated its first listed trust in 1979. Many unlisted property funds remained closed-end at the time, especially those connected with Hooker and AFT (with the exception of AFT's original Property and Buildings Fund from 1959). But the most notable performers in the property area in the early 80s were Growth Equities Mutual (GEM) and Armstrong Jones, both of which had been founded as Western Australian concerns in 1981. Brick did particularly well out of its no-income property funds in the early 80s as did AFT, and both Brick's and Westpac's

[41] [P Hutley (UTAA)], 'Managed funds in Australia – trends and structure', *Economic Roundup* Winter 1993, pp. 35-47.

mortgage business also boomed. Armstrong Jones and GEM were the financial journalists' darlings; it was not all roses for everyone in the industry even during the early boom years, however. The 1982 property collapse that claimed TEA also saw the end of Balanced Property Managers in 1983.[42]

A bull run on the stock markets (which united as the ASX in 1989) had also soon returned equity trusts to favour – Bruce Bird and Ross Smyth-Kirk, managing the forlorn AFT equities trusts in the mid-70s, were running their own market-leading equities specialist, Clayton Robard, from 1980. AFT remained the lead player in equities, but would soon surrender its position to Clayton Robard, Rothschild (which relaunched its Javellin fund as the first Five Arrows trust in 1983) and EquitiLink (founded by two South African immigrants, Brian Sherman, formerly of the Bank of NSW, and Lawrence Freedman, ex-BT, in 1981).[43] Rothschild Australia was even advertising its fund managers as celebrities by this time after its Five Arrows funds had begun to soar, one of the reasons, no doubt,

---

[42] G Cochrane, 'Choosing the trust that's right for you', *Personal Investment* Dec 1983, pp. 25-35; A Lampe, 'Take heed of the Balanced experience', *Personal Investment* June 1984, pp. 96-97. Balanced, bizarrely, had operated with a $2 trustee company. Its trusts were subsequently managed by Telford Property and BA Australia, Telford and its other funds also eventually failing in 1987.

[43] G Cochrane, 'Taking the fear out of plunging into the share market', *Personal Investment* Nov 1983, pp. 21-27.

why Robert Maple-Brown left Rothschild to form his own equites super boutique, Maple-Brown Abbot, in 1984.

EquitiLink, with its GrowthLink and WorldLink trusts, proved a particularly flashy player, especially after it launched its Prime Income Fund in the US in 1986, raising over $800m to be ploughed into Australian bonds. The expansion of Australian funds into international equities also saw the entry of (at first) foreign-based players like the Swiss Bank Corporation (SBC) from the mid-80s. The real retail equities tyro for much of the decade, though, was BT Australia, then still a wholly owned subsidiary of the New York-listed Bankers Trust Co. BT not only led the super industry surveys especially in the early 80s, but from 1983 both their Hi-Yield CMT and balanced Split-Income Fund became two of the most dynamic and popular of all retail funds.

By this date entry fees had typically lowered to 6% with 1% ongoing service fees (AFT only belatedly lowered their longstanding 8% application fee after the former industry giant had begun to lose ground from the mid-1980s). All sorts of new funds were being promoted by the middle of the decade, from J B Were's Invia trusts and Joe Gutnick's ABC funds (one of which at one stage featured its manager's name, Martin Simpson, in the name of the trust) to newcomers from Britain and the US such as Scottish Amicable and Fidelity. But despite the gilt headlines (and ads) that accompanied the successes of Clayton Robard, Rothschild, EquitiLink and BT, tax-favoured property remained the largest sector of the managed funds pie. Unsurprisingly, then, when the UTAA was founded in 1983 (its foundation members being AFT, Advance Asset Management, Brick, Equitable, GEM, National Mutual and Rothschild), John Mark of

Brick, at that time a leader in both mortgage and property funds, was elected its first chairman (and oversaw the UTAA's growth through to 1987); GEM co-founder Greg Paramor succeeded him and was UTAA chairman through til the end of the decade. In fact the nervousness that led to the CGT campaign, the issue which led to the incorporation of the UTAA and an expansion of its membership to 59 management companies by 1988, had its first major consequences in the property industry, not in equities or CMTs.

Nonetheless the equities boom had led to another round of sector-specific funds along the model of AFT's old Natural Resources of Australia Trust (which ran from 1966 until 2001). ABC funds had a high-technology stocks specialist, international equities and trading trusts had also arrived, as had the life offices to the scene. Westpac had been born out of the merger of the Bank of NSW and the old CBA in 1982, both of which had long been offering unit trusts (and the CBA at one time even a mutual fund) and its mortgage, equities and property trusts all continued to prove successful. Despite the status of the BTs and the Rothschilds in the minds of many members of the burgeoning financial planning industry, the Westpac funds remained particularly successful (they had, after all, the lowest application fees). In fact, although the 80s proved to be an appalling decade for Westpac generally, its managed funds division was one of its few solid performers.[44] Yet with AFT, the ANZ had more unit trusts and more funds under management than any of its

[44] E Carew, *Westpac*, Sydney: Doubleday, 1998, pp. 292ff.

competitors (and had even acquired Equitable's Oil and Minerals Trust by 1987). AFT's standing declined from the mid-80s, however, many of its funds having fallen to the bottom of the tables published in *Personal Investment* by 1986. Touting that it was deliberately a conservative manager, AFT's funds under management peaked at $2.46bn shortly before the stock-market crash of 1987. But the ANZ had also acquired the common-fund accounts of TEA in 1983, and in the form of the ANZ V2 money-market fund, its common funds had boomed from $2m to $1bn by late 1986 – about the total size of all CMTs combined at the time.

The 80s boom teetered and then crashed, however, after the dark days of October 1987 and the property industry fiascos of 1989-92. Tricontinental collapsed through exposure to bad loans made to companies such as those associated with Qintex and Bond Corporation, Hooker Corporation (whose trusts had been in financial trouble since at least 1984) went into liquidation four short years after being taken over by Melbourne real-estate mogul Georg Herscu (who was subsequently gaoled), and several management companies, both in retail and in super, similarly folded in the late 1980s after their equities funds had incurred heavy losses.[45]

The first BIS Shrapnel survey of financial planners had revealed that foreign-owned players, Hambros, Jardine Fleming, BT and Fidelity, were the most favoured fund

---

[45] Sykes, *Bold Riders*, pp. 262ff.

managers in 1986, with only GEM represented among the locally owned (and property) fund companies. John Elliot's Elders won *Money Management's* inaugural fund manager of the year award with its newly launched funds in 1988, with GIO's similarly new offerings and the older trusts of Potter Partners close behind. By 1989, however, BT, Rothschilds and Westpac had returned as the leading trio, BIS Shrapnel adding the local leading pre-crash names Clayton Robard, EquitiLink, GEM, Armstrong Jones and Heine as well as Jardine Fleming, Fidelity and Hambros to the top of the mix. Macquarie, BT and MLC's Australian Liquid Assets (ALAT) led the CMT market, while Maple-Brown Abbot had replaced three-year leader Hambros at the top of the Towers, Perrin, Foster & Crosbie (TPF&C) super rankings in 1988. But several of the leading smaller brands – from foreign merchant banks to local property specialists – would soon disappear, their places in the retail rankings assumed by offerings from insurance companies.

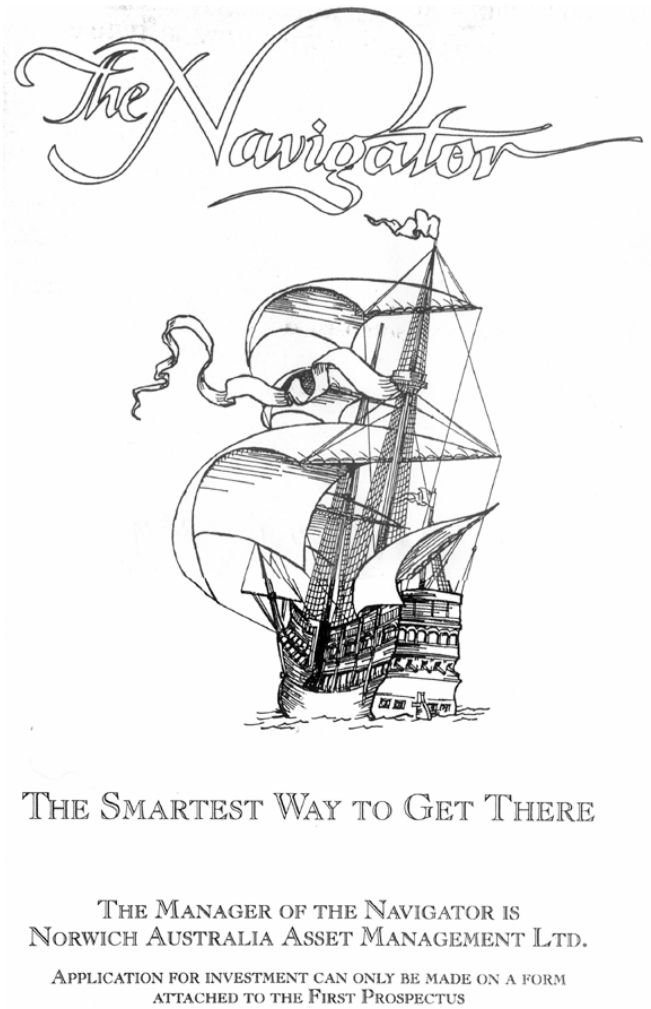
PP Management had already been rebadged as Potter Warburg Asset Management in 1987 after the merger of Potter Partners with the British merchant bank S G Warburg, Potter Warburg buying the equities management arms of another British merchant bank Hambros, as well as Elders in 1990. Clayton Robard, which had been owned by Keywest Exploration Group, a listed investment company, since 1983, was similarly rolled into the British-owned Tyndall Holdings in 1989 after a seemingly ever-young Ross Smyth-Kirk had been declared too passive a funds manager by the new owners. Long a bane of independent financial planners and increasingly in conflict now even with some of its tied sales force, perhaps the greatest victim of the 1987 crash was Smyth-Kirk's old firm AFT. Despite its name still appearing on ASSIRT lists (its funds now all closed), the unit trust

industry's one-time IBM was finally rolled into ANZ Life in 1989 – no management company, even BT at its height, however, has since been able to reclaim the kind of industry presence and clout as AFT had enjoyed since the 1950s and had continued to hold even in the early years of the second managed funds boom.

One of the consequences of the Trico collapse was the partial floating of the Commonwealth Bank negotiated by treasurer Keating at the ALP's 1990 National Conference as part of the Commonwealth's acquisition of Tricontinental's parent the State Bank of Victoria. The old savings banks had been repositioned during the 80s so that they had become rude copies of their privately owned trading cousins: the State Bank of Victoria had been involved in managed funds since the late 80s, that of SA had bought out declining unit-trust manager Oceanic in 1988. Although both the Victorian and South Australian state banks would become victims of excesses perpetrated in the decade later to be lambasted in Hollywood's *Wall Street*, a more successful privatisation would occur when the State Bank of New South Wales was rebranded as First State and began to offer unit trusts from 1989, a year after the Commonwealth Bank had similarly launched its first equities trust. But the stock-market crash had also been taken as a sign by the life offices to move more strongly into the unit-trust field.

From 1988 Colonial Mutual (CML), Legal & General, Prudential, Mercantile Mutual and moreover the mighty AMP Society followed National Mutual and Capita into retail funds. Capita failed, but CML moved to expand, its first acquisition the funds management business of the Hooker group in 1989 followed by the purchase of the Hambros CMT and common fund in 1990. MLC (the management of its equities fund already outsourced to

international specialists such as Rothschild and County Natwest at the time) acquired the rebranded Lend Lease's fund management vehicle Australian Funds Management (which had been relaunched by Dick Dusseldorp and shoulder-padded celebrity journalist Geraldine Doogue the previous year) and the first of its nest egg ads would also appear in 1989. The GPT was already a $1.6bn fund by that date, and as investors began to seek out the safety of big names such as AMP, Westpac and National Mutual, Perpetual started to advertise its four common funds shortly before opening its private equities vehicle (founded in 1966) to retail customers, the (then) $65m Industrial Shares Fund later that year. Norwich Union also began soliciting investments for its first capital-guaranteed products at the same time its merger partner of 1990, ANEV Life, launched its Navigator master trust offering investors selection from four differently positioned investment funds.



The property trust debacle was to prove more fundamental a change (especially from a legal perspective), however, even though the UTAA had relayed its concern over Estate Mortgage to the NCSC long before the unit-holder runs began in 1990. With the collapse of Estate Mortgage (which had launched its first mortgage trust in 1976) and Aust-Wide (founded in 1983), too, a series of mergers and takeovers subsequently transpired in the property sector – Brick was bought by National Mutual, Equitable's control over its old

UFT trust was surrendered to CML and GEM was eventually rolled into Lend Lease, its trusts, largely, into the GPT. An abortive attempt to run a redeemable listed trust market proved a farce; within a few years most of the property trusts had listed. The property collapse following hot on the heels of the general gloom in equities, however, now saw total funds under management in retail trusts actually decline in 1991 and 92 for the first time since the late 1960s. Property trusts had grown by 49% between June 1988 and 1990 (to a peak of $17.9bn), but declined by 30% to June 1992 ($12.6bn). Another indication of the size of the restructuring was that membership of the IFA (the UTAA apparently having been rebranded in 1991 owing to concerns that few Australians really knew what a unit trust was) declined by almost a third (to 40) in the early 90s as a rationalisation of unit-trust management companies occurred.[46]

The recession, though, saw the arrival of new foreign players, most notably the American giant Citibank, who launched the first locally offered hedge fund (in Japanese equities) in 1989. Mirvac, a former subsidiary of Westpac's finance company AGC, now headed *Money Management's* property tables and Perpetual and Friends Provident proved

---

[46] Hutley, pp. 40ff.; M Hughes, 'Silver lining in cloud over UTAA', *Money Management* Aug 16, 1990, p. 14. The reference to a cloud over the UTAA was a recognition that Estate Mortgage's director Carl Davies' leadership of the mortgage chapter of the UTAA at the time of the first runs on his company had led to criticisms concerning the co-regulatory function of the UTAA, although this suggestion was publicly disputed by the NCSC.

to be the boldest new entries among local equities players. AMP and the Commonwealth bank were now emerging as two of the most successful procurers of new funds in the first of ASSIRT's quarterly surveys as public doubts now began to grow over the state of National Mutual's reserves (similar problems with Capita, after all, had led to its merger with MLC in 1990). Rothschilds also responded to its apparent decline by offering financial planners trailing commissions and lowering its retail management fee to 0.6% – the same as it was charging for its wholesale funds.

By 1992, however, equities specialists were back in favour: both EquitiLink and Tyndall had good years, Potter Warburg now led the Mercer, Campbell, Cook and Knight super ratings, and foreign players such as British-owned County NatWest moved into the retail market. The St George building society took its first steps into investment funds through a management arrangement with BT and management expense ratios (MERs) flared up as a hot issue as retail master trusts were becoming increasingly popular. A plethora of master trusts had developed, many run by financial planners (who often had set with software bought from the US), most of which at first had had to send their (mainly super) funds into retail unit trusts with 6% entry fees. Wholesale pools began to be developed by the leading management companies in order to attract funds from master trusts, and large master funds (such as those offered by Norwich Union, SEALCORP's ASGARD and MLC) emerged to join the fund-of-funds products such as that offered by Bain & Co (which in 1992 had just been bought by Deutsche Bank). The IFA, after trying to develop an MER scheme for master trusts also abandoned its chapters and reorganised itself around issues-based committees. It also became involved in a public exchange with

the TCA as the role of trustees in retail funds increasingly came under question, but the writing was already on the wall for the old two-headed legal structure.

As the early 90s recession receded, BT was still the most popular of funds managers (and had over a 20% share of total retail funds under management). New companies vying to join the head of the pack, however, included First State and Perpetual (the latter of which had acquired the rights to Fidelity's local investment arm in 1993). The Macquarie Bank now began expanding out of its specialisation in cash and fixed interest with a successful advertising campaign flogging its new wares as master trusts were also launched by AMP and CML, and many of the smaller (mostly uneconomical) master funds began to disappear. New management boutiques such as Portfolio Partners and Platinum Asset Management emerged as a new boom beckoned.

Money Management's 1994 manager of the year was Armstrong Jones, but the continuing successes of equities would soon see property trusts disappear from the headlines. First State's success, however, now saw it become the junior partner in another series of mergers that would propel CML high into the fund-manager rankings. Despite a short period of capital outflows occurring across the board in the first quarter of 1994, Rothschild now began to offer performance-based fees, another first in retail pricing, as competition in MERs began to be reflected more and more in fund advertising. The SBC also bought Warburg's in the UK that year and the local Potter Warburg investment arm was subsequently renamed Mercury Asset Management. International share funds and those specialising in small local companies would prove to be the manufacturing tale of the

90s, much as would master discretionary funds (MDFs) as the ASC at the time described them.

American names also became more and more pronounced in the industry, however, as the 90s progressed. The local Vanguard subsidiary had launched into retail management in 1998, State Street steadily built upon its super business (after first arriving in 1991) and Merrill Lynch then arrived in Australia by buying out Mercury Asset Management plc in 1999 in the UK. The older life offices AMP, MLC and Mercantile also surged, often through acquiring smaller players (such as property specialists Heine and Armstrong Jones) as did St George, now a bank (by acquiring SEALCORP's ASGARD and Advance in 1997), before the new act regulating the industry was proclaimed in 1998. Member discretionary funds continued to grow (mainly at the expense of fund-of-funds products, but also slowly by wrenching market share away from the traditional retail funds). A crisis in the general insurance sector led to even more consolidation as the funds management arms of FAI and the foreign-owned Legal & General and Prudential were acquired by Tower Life (which had arrived in Australia after acquiring Adriatic Life in 1991) and Colonial First State respectively. BT held the most funds under management, but by the end of the 90s, the tyro of the 80s would be beginning to show signs of wear as Colonial First State (*Money Management's* fund manger of the year from 1996 and again from 1998-99), Commonwealth Financial Services, MLC and especially the newly demutualised AMP continued to make impressive gains. With the end of the dot-com boom, BT would finally relinquish its place to MLC, though, only for them both to be overtaken finally by the merged Colonial First State/Commonwealth group. At the end of 1999 when the merger

was first announced, the two CFSs had been fourth and fifth respectively in the ASSIRT rankings behind BT, AMP and Lend Lease/MLC. A new clear industry leader had emerged.

By 2002, however, the top ten of 1999 had become a top six, the four big banks had bought (or in the case of ANZ formed a joint venture with) the largest life and investment organisations (after AMP) in the retail rankings. The Macquarie Bank and the AXA group now brought up the rear, although Macquarie would post the strongest gains over the next few years. By this time most of the flow into retail funds was through master trusts and wraps – or IDPSs as ASIC had styled such products in 2000. But property would now become the most dynamic part of the managed-funds market as the bubble of the dot-com boom burst in 2001 and equities returns slumped alarmingly, the year that the last AFT trusts finally disappeared from the rankings.

One aspect of the conversion of most of the unlisted property trusts to listed vehicles was takeovers. BT had attempted to acquire the management rights of one of Equitable's property trusts as early as 1984 and similar squabbles had broken out over the spoils of the fallen Hooker Corp and Aust-Wide. The early 2000s saw several well-publicised attempts, however, by other players to buy units in well-established LPTs in order to throw out the incumbent management companies – several of the AMP trusts were successfully staked out at the time and Colonial First State also had to fight off similar moves. Schroders even finally decided to get out of property in 2000, divesting itself of its property fund which had been founded by Darlings as long ago as 1972; AMP then delisted it as part of its voluntary LPT divestment programme in 2003. A growing movement towards internal management,

pioneered most successfully by the Centro Group in 1997 (some years after their founder Jennings had sold out in 1993), saw the 1971-founded GPT stave off a proposed merger with Lend Lease after rivals Westfield had intervened in 2004. The move to stapled securities in property along the American industry's lines was being touted as a recipe for substantial management savings much as competition between retail trusts and master funds had brought substantial reductions in MERs in the early 90s.

3. Investors

Of course the story of the Australian funds management industry is not one just about managers and their products. The industry's emergence reflects the changing nature of Australian cultural and economic life. The participation, as investors, of ordinary Australians in the industry reflects their ability to accumulate, and approach to, savings and investment.

The idea of managed funds emerged between the Great Depression and WWII. The industry flourished in the first boom of the late 1950s and 60s, retreated in the 1970s, then rebounded and has grown steadily since the early 1980s. That second boom appears to have been in response to political and social pressures on the domestic and international fronts. A significant challenge was the high inflation of the 1970s, which brought about a major re-assessment of the goals of saving. During this period, new emphasis was placed on the accumulation of capital gains through higher returns, in order to off-set the effects of inflation and taxation.[47] Other factors influencing development were the introduction in the early 1980s of compulsory superannuation; the de-regulation of the financial markets; the recession of the early 1990s, which saw the retrenchment of many executive-level workers;

---

[47] B M Gregg, 'A Survey of the Australian Fund Management Industry', MBA thesis, University of Melbourne, 1988, p. 2.

the wide-spread privatisation of state and federal government utilities; and the need to increasingly support and facilitate the retirement needs of the aging baby-boomers.

Post-war Australian history has been dominated by themes of development, consolidation, expansion and contraction. The funds management industry has often played a central role in the country's nation-building projects. In the case of the nickel boom of the late 1960s, this role was not without significant controversy or casualties. Since the early 1950s, the industry has developed in organisational and distributary terms. Just as the industry has changed, so have the individuals and entities who both service and support it.

Australians are now financially more educated and literate than they were twenty-five years ago; they see themselves more as 'investors' rather than 'savers', growing personal wealth rather than simply conserving savings.[48] How investors choose particular funds management products to invest in, how those products are marketed and distributed to them, is part of a larger story about how Australians see themselves in relation to the present and future, and to economic, political and social exigencies where increased debt and risk have become more socially acceptable.[49] Australians now have access to a

---

[48] This development is briefly considered in E Carew, *Fast Money 4*, St Leonards: Allen & Unwin, 1998, p. xiv.

[49] The *Financial System Inquiry Report* noted in March 1997 that there has been a 'shift in household financial assets into market linked investments, meaning that households are directly bearing a

significant range of different financial products, marketed through a variety of channels like financial advisers, TV, the web, and investment books and magazines. In order to understand the changes which have taken place in Australian investor culture as it relates to the funds management industry, however, it is important to return to social and historical changes in the profile of investors, while also considering the changing role of technology in the distribution of investment products.

1955-1974: the emergence of the small investor

There is no better way to begin the story of the rise of the small investor in Australia than with Australian Fixed Trusts (AFT), a management company established by Hugh Walton in 1936. Walton's First Australian Unit Trust, launched that same year, was pitched explicitly at 'Australian Investors with limited capital',[50] to a 'legion of men and women who hitherto have been unable to have an interest in a wide range of ordinary shares owing to the smallness of their capital'.[51] Described in its prospectus as a 'modern method of scientifically-planned investment', its aim was to help investors spread their 'funds as easily as does the man of substantial means wise in experience of that fundamental

---

greater proportion of investment risk than in the past'. See *Financial System Inquiry Report,* Canberra: Australian Government Publishing Service, 1997, p. 81.

[50] *First Australian Unit Trust: A Fixed Trust Type of Investment,* Sydney: AFT, [1936], p. 5.

[51] Ibid., p. 16.

principle'.[52] Consistent with the ethos of the period, where the adoption of a 'scientific approach' to anything meant being modern, the prospectus attempted to make unit trust investment accessible to everyone—a theme that was to dominate the funds management industry from the early 1980s onwards.[53]

Part of the trust's marketability was its appeal to patriotism: the prospectus stated that by investing in the trust, small investors became 'part owners in those companies on which the economy of Australia depends'. Given the developing situation in Europe at the time, and the fact that Australia was in a period of transitional nation-building following WWII and the Depression, such patriotism would have struck a chord with many Australians. Twenty-five years later, AFT attempted to provide evidence for its success in mobilising the support of the small investor by featuring a letter from a Miss Milne in its *Silver Anniversary Report*. In her letter, Miss Milne stated that her experience of AFT over twenty-five years had 'confirmed the impressions I formed in 1936, that this type of

---

[52] Ibid., p. 5.

[53] The prospectus of the trust included 'a word to the large investor', functioning like a footnote, in which it stated that 'Large investors are spared, through the Unit Trust, the trouble and expense of making a number of individual purchases, correspondence, and periodical valuations, and of collecting dividends, rights and bonuses'. See *First Australian Unit Trust: A Fixed Trust Type of Investment*, p. 16.

investment had a definite place in the community by reason of its safety and...still fills a need of the investing public today'.[54]

NOW OPEN

FOR PUBLIC INVESTMENT

6TH AUSTRALIAN FLEXIBLE TRUST

A secure investment spread over 100 Leading Public Companies representing nearly every section of Industry

Between 5% and 6% p.a. with prospects of capital gains

Opening Price 20/- per unit

ACT NOW

Perpetual Trustee Company

Convertible to Cash

HOW TO INVEST

Telephone: BW 2741, BW 1257

Call at: Australian Fixed Trusts Pty. Ltd. 41 Hunter Street, Sydney

Income Cheques half-yearly

Australian Fixed Trusts PROPRIETARY LIMITED

Established 1936

Australian Fixed Trusts Pty. Ltd. 41 Hunter Street, Sydney BW 2741

Australian Fixed Trusts Pty. Ltd. 10 Bolton Street, Newcastle B 3937

Australian Fixed Trusts Pty. Ltd. 50 Crown Street, Wollongong B 2113

PAGE FOUR

[54] *Silver Anniversary Report* [Sydney]: The Group, 1961, p. 3.

Marketing and distribution have, since the beginning, been vitally important. AFT's First Australian Trust, which was wound up in 1951 in accordance with its prospectus, provides an early illustration. Although it had not achieved the anticipated average 10% return to unit-holders, it was nonetheless an example of innovative marketing and of the importance of controlling the distribution of products to investors.

In response to poor cash inflow in the early 1950s,[55] AFT's Charles Allerdice is said to have sent out a circular to names selected from the Sydney telephone directory, explaining what AFT was, and the concept of a unit trust.[56] So successful was this initiative that from then on, circulars were distributed twice a year to every name in the telephone book of every Australian city; and by 1961, AFT had established its own direct-mailing company, Australian Mailing Service (AMS), which claimed to utilise the 'most comprehensive mailing lists, detailing in a multitude of categories, all possible market groups...'[57] The story goes that the impact of AFT's direct marketing was such that it was second in success only to *Readers' Digest.* Yet AFT also supplemented its direct mail marketing with other forms of advertising. An advertisement for the launch of its 6th Australian Flexible Trust appeared in the *Financial Review* in 1955, for example,

---

[55] Allerdice was general manager of AFT until 1971 and chairman until 1980.

[56] D Koch, 'Viewpoint', *Personal Investment* Jan 1989, p. 25.

[57] *Silver Anniversary Report*, p. 17.

emphasising that investors could convert their unit trust certificates to cash at any time.[58] Earlier that year, advertisements for its 7th Australian Unit Trust also appeared in the *Financial Review*. Covering 40 public companies, investors of the trust could invest sums as small as £20 and as much as £20,000.[59]

ANNOUNCING

FOR PUBLIC INVESTMENT

7TH AUSTRALIAN UNIT TRUST

Investment spread over
FORTY SECURE PUBLIC COMPANIES

Appleyard Woolen (Aust) Ltd.
Associated Paper & Paper Mills Ltd.
Associated Rural Industries Ltd.
Australian Agricultural Industries Ltd.
Australian Guarantee Corporation Ltd.
Bond Ltd.
Blue Metal Industries Ltd.
Bradford Cotton Mills Ltd.
Bridge Trading Co. Ltd.
Broken Hill Proprietary Co. Ltd.
Broken Hill South Ltd.
Burns Philp & Co. Ltd.
Carpet Manufacturers Ltd.
Clyde Industries Ltd.
Commercial Bank of Australia Ltd.
Carl Bros. (Aust.) Ltd.
Davis Gram Ltd.
Dunlop Rubber (Australia) Ltd.
Drug Houses of Australia Ltd.
Email Ltd.
Fairymead Sugar Co. Ltd.
Fish & Tucker of Australia Ltd.
F. J. Walker Ltd.
General Industries Ltd.
G. J. Coles & Co. Ltd.
Goldsbrough Mort & Co. Ltd.
Gepps & Cook (Australia) Ltd.
Henry Jones Co-Operative Ltd.
Howard Smith Ltd.
Imperial Chemical Industries of Australia & N.Z. Ltd.
John McPhee Industries Ltd.
Kandos Cement Co. Ltd.
McPherson's Ltd.
Mt. Morgan Ltd.
National Bank of Australia Ltd.
National General Refrigeration Ltd.
North Broken Hill Ltd.
Tachbrook Industries Ltd.
Tindyal Ltd.
Woolworths Ltd.

Between 5% to 6% per annum with prospects of capital gain

Australian Fixed Trusts Pty. Ltd. have successfully managed Australian Unit Trusts for nearly 20 years. Over £18,000,000 has been invested in these Trusts and investors have averaged between 5% and 6% on their money with excellent prospects for capital gain. Now 7th Australian Unit Trust offers you the opportunity of a secure investment covering 40 leading public companies with capital and reserves of £214,652,041.

INCOME CHEQUES PAID EVERY 6 MONTHS

Income cheques will be paid to investors regularly on the 28th February and 31st August each year. This income may be used in any way you wish or re-invested in a Unit Trust.

Invest any sum you like — from £20 to £20,000

A single investment as small as £20 gives you a shareholding interest in the 40 secure public companies listed on the left. These companies have been selected by financial experts because of their past success and future prospects. You receive a single certificate for your investment, and in this way you are saved the time and trouble of dealing with many different companies. You say farewell to much bother and detail work.

CONVERTIBLE TO CASH AT ANY TIME

Australian Fixed Trusts Pty. Ltd. guarantee to convert your Unit Trust Certificates into cash whenever required. Prices of Sub-Units vary from time to time, based on the Stock Exchange prices for the shares in the Trust. These prices are published daily, Tuesday to Saturday, in the metropolitan press.

PERPETUAL TRUSTEE COMPANY (LIMITED) SAFEGUARDS YOUR INVESTMENT — Perpetual Trustee Co. (Ltd.), of 33-39 Hunter Street, Sydney, which already controls Trust Funds totalling over £71,000,000, acts as Custodian Trustee for investors in 7th Australian Unit Trust and holds the shares on behalf of investors, collects all income and distributes it to investors each half-year.

ACT NOW. Apply for investment or further information to the nearest office of Australian Fixed Trust Pty. Ltd. Applications received up to 1st June will be allocated at the opening price, which is expected to be 20/9 per Sub-Unit.

AUSTRALIAN FIXED TRUSTS PTY. LTD.
41 HUNTER ST., SYDNEY. BW 2741

10 Bolton Street, Newcastle. B 3937.

50 Crown Street, Wollongong. B 2113.

PAGE THIRTEEN

[58] *Financial Review* Aug 4, 1955, p. 4.

[59] *Financial Review* May 26, 1955, p. 13.

Unit trusts underwent considerable growth in the mid-1950s.[60] This growth was due in part to the fact that investors as a group were maturing; it was also the result of the trend towards flexible (rather than fixed) trusts. From little more than £500,000 at the end of WWII, unit trusts had grown to £18 million by 1955. Interestingly, unit holders were often newcomers to stock exchange dealings, and had made the switch to unit trusts because they wanted greater return on their money.

There were geographical disparities in the distribution of the trust industry. At this stage, the industry was more developed in Brisbane and Sydney, due no doubt largely to the activities of AFT in these two cities. Savings bank deposits remained the preferred method of saving in South Australia and Victoria.[61] Nonetheless, there was potential for growth in the unit trust industry in the southern states. AFT, for example, was making inroads into South Australia—its S.A trust having raised about £350,000 in the first year of its operations. Melbourne company, Southern Unit Trusts, was also operating with some success, the total value of investments in its two flexible trusts approximating £650,000. Part of its success was due to the fact that, unlike many other trusts, it received a significant proportion of its business through stockbrokers. Other trusts, on the other hand, resorted to

---

[60] 'Unit Trust Investment Reaches £18 Million; Thirty-Six-Fold Growth", *Financial Review* Aug 11, 1955, p. 1.

[61] Ibid., p. 1.

advertising on the radio or in newspapers.[62] AFT ran a network of agents, including an agent operating out of Rabaul in Papua New Guinea, which was, at that time, a colony of Australia, and supported a large and affluent expatriate population.

On the more general level, other companies involved in both investment management and advice also began to advertise from the 1950s onwards, using in particular radio and the print media to increase their profile among small and middle-sized investors. Associated Securities Limited (ASL) advertised their investment advice service, for example, in the first edition of the *Australian Stock Exchange Journal* in January 1972; based in most major Australian cities, they promoted themselves as a national service for 'current investors, share-brokers, bankers, accountants, private individuals'.[63] The National Bank of Australasia (NBA) also advertised its financial services during this period, running a campaign in the *Australian Stock Exchange Journal*. At this time, the NBA had a Portfolio Management Department which consisted of a 'team of people who specialise in managing investments for superannuation funds, insurance companies, corporations and trusts'.[64] During the early 1970s, Darling Management Limited advertised its Darling Fund

---

[62] Ibid., p. 5.

[63] *Australian Stock Exchange Journal* Jan 1972, p. 136.

[64] *Australian Stock Exchange Journal* Jul 1973, p. 53.

in the print media,[65] providing, as was common practice in advertisements of the time, a simple reply coupon for a copy of the prospectus.

The low key nature of such advertisements was the result of restrictions imposed on the investment advertising of finance companies. These restrictions meant that in the course of a TV or newspaper advertisement, a finance company could not claim the superiority of its investment over another; in practice, this meant that finance companies were unable to compete equally with building societies, banks and credit unions which were not subject to such limitations.[66] Symbols of strength or security could also not be used. There was the well-known case in 1975 of FNCB-Waltons Corporation Ltd being challenged by the Corporate Affairs Commission over the use in a television commercial of a cartoon character called the 'debenture creature'.[67] It was the Campbell Committee's report handed down in September 1981 that recommended the lifting of restrictions on information contained in advertisements. The argument was that investors would be appropriately

---

[65] Ibid., p. 40.

[66] *Australian Financial System: Final Report of the Committee of Inquiry*, Canberra: Australian Government Publishing Service, 1981, p. 389.

[67] *Financial Review* Nov 24, 1981, p. 20.

protected as long as minimum standards of accuracy applied, and funds were lodged on an application form attached to a prospectus.[68]

From the late 1960s onwards, some investors began to come together to form interest groups—the Australian Shareholders' Association forming in 1968, for example, to lobby on securities issues. However, the early 1970s represented a turgid time for many small investors who had been swept up by the nickel boom. There were several high-profile scandals and collapses of mutual funds. The first involved MinSec (Mineral Securities Australia Ltd), which was originally formed as a share-trading and investment company, and which, in early 1970, sponsored and under-wrote the launch of two mutual funds, the purposes of which were to raise funds from the public for investment in industrial and mineral securities.[69] However, the spectacular collapse of MinSec in early February 1971 brought about an immediate suspension in redemptions of the funds, as it became clear that the funds had losses in excess of $5.5 million as a result of shares purchased on their behalf.[70] The complex history behind the collapse of these funds cannot be covered here.[71]

---

[68] Ibid.

[69] *Report from the Senate Select Committee on Securities and Exchange*, Canberra: Australian Government Publishing Service, 1974, p. 14.58.

[70] Ibid.

[71] See ibid., pp. 14.58-14.84.

The important point to make is that each fund was an unlimited company, which meant that investors were responsible for all debts incurred.

The other scandal involved Dr Michael Garretty, whose family owned a series of companies with complex and often perplexing agendas and interests. One such company, Fund Custodians Ltd, managed two mutual funds, Dividend Fund Incorporated, and Increment Fund Incorporated.[72] In mid-1971, ten of the Garretty family companies entered into voluntary liquidation: the Dividend Fund with 163 members lost shareholder funds of $483,189; while the Increment Fund with 330 members lost $822,424 of shareholder funds.[73] The collapse of these mutual funds, along with the demise of a number of other groups associated with the mining boom—including several stockbrokers—generated enough concern in government circles that a Senate Select Committee on Securities and Exchange headed by Senator Rae was appointed in March 1970 to look into the feasibility of establishing a securities and exchange commission. The Committee eventually tabled its report in the Senate on 18 July 1974. The report was a major event in the financial press, with the *Financial Review* publishing excerpts of the report for several weeks.[74] Evidence

---

[72] Ibid., p. 12.3.

[73] Ibid., p. 12.3.

[74] The first of the 'Rae's Blockbuster' articles were run in the *Financial Review*, 19 July 1974, pp 1ff.

taken during the course of the Committee's inquiry did in fact provide impetus for the formation of the National Companies and Securities Commission (NCSC) in 1979, which became the Australian Securities Commission (ASC) in 1991, before being renamed the Australian Securities and Investment Commission (ASIC).

FINANCIAL REVIEW

RAE's BLOCKBUSTER

THE RAE REPORT

Poseidon

Minsee

J. T. Martin

'Damming, powerful, persuasive —page 2

The unacceptable face of capitalism —pages 2, 3

Throughout next week the "Review" will carry extracts of the Rae Report

As a result of the collapse of these mutual funds, many small investors lost confidence in investment, and indeed, in the advice of stockbrokers. Following a survey conducted by The University of Melbourne into peoples' attitudes towards saving, Anne Lampe reported in the *Financial Review* in August 1974 that 'investors are becoming increasingly disillusioned with the investment alternatives so eagerly sought in the past', preferring banks as repositories of their funds.[75] Given the implicatedness of various stock exchanges around the country in the nickel bust, some investors were also reluctant to dabble in the stock exchange. This is despite the fact that in June 1972 the Melbourne Stock Exchange established new rules requiring all money destined for trust accounts to be deposited immediately, rather than being placed in interim stockbrokers' general accounts.[76] At this time, continual financial uncertainty and falling profits meant that stockbrokers were either laying off staff, seeking to merge with other stockbrokers or concentrating on research or institutional business.[77]

Despite the collapses of the MinSec and Garretty mutual funds, social, political and economic transformation meant that as the 1970s progressed small investors came to greater prominence, seen as making a unique contribution to the development of the

---

[75] *Financial Review* Aug 20, 1974, p. 3.

[76] *Financial Review* Jun 1, 1972, p. 19.

[77] *Financial Review* Jul 18, 1974, p. 16.

Australian economy. In March 1974, Frank Crean, treasurer in the Whitlam Government, indicated that there was a need for increased communication with the general public about financial advice, remarking that 'The small investor scarcely exists. I'd love to be given more information about who they are and how significant they are'.[78] In recognition of the importance of this small investor, the Sydney Stock Exchange introduced during the course of April 1974 the Information and Advisory Service which had, as one of its aims, a 'personalised' service to 'any member of the public who is seeking to build their savings into a worthwhile investment'.[79] The service was headed by Bruce Bond, who was even at that time a well-known identity in the popular media, regularly giving shipboard lectures on finance, and talking investment strategy on television, at the Exchange itself as well as schools and colleges.[80] Part of the justification for establishing the Advisory Service was to regain the confidence of small investors who had suffered losses following the nickel bust.[81]

---

[78] Quoted in R Watters, 'New Stock Exchange Service', *Australian Stock Exchange Journal,* Apr 1974, p. 29.

[79] Ibid.

[80] Of course, Bruce Bond became more well-known for his 1986 publication, *Money Thoughts.*

[81] P Dellwood, 'Time's a Changing for Mutual Funds?', *Australian Stock Exchange Journal* Jan 1973, p. 36ff.

As the 1970s progressed, commentators not only began recognising on an institutional level the importance of the small investor; they also began to recognise, albeit it sometimes belatedly and disparagingly, the significance of women to the development of the financial advice industry. This recognition arose as a result of the changing status of women in the public sphere, most obviously, the increased presence of women in the paid workforce.[82] At this time, women became a target of the investment industry, and lectures on investment conducted by Bruce Bond at the Sydney Stock Exchange were well-attended by women. However, some male commentators saw women as poor financial planners, with a tendency for 'flightiness', 'overcautiousness', to be 'instinctive' rather than canny in their investment choices, and inclined towards the 'sentimental hording of investments and valuables'.[83] Nonetheless, with 'Ms 1977 becoming more independent, less inclined to rush into an early marriage...the 1977 female [is becoming] an attractive target for the investment industry'.[84] As we shall see, this interest in the financial security of women became more systematic during the course of the 1980s; so that the story of Miss Milne no longer seemed so quaint or exceptional.

---

[82] Bob Vagg predicted that 'Woman power is to be the going thing in the banks, and will in the seventies account for by far the greatest proportion of staff'. See B Vagg, 'A Decade of Rapid Change', *Australian Stock Exchange Journal* Jul 1972, p. 33.

[83] John Schafer, 'Women and Money', *Australian Stock Exchange Journal* Mar 1977, pp. 16-19.

A perhaps under-recognised theme in the development of Australian investor culture was the spread of technology from the 1970s onwards, and the role played by technology in expanding not only the financial resources available to investors, but in creating new opportunities. Financial institutions adopted electronic data processing on a systematic level in the 1970s; the first automated teller machine was brought into service by the NSW Teachers' Credit Union in 1977, and it appears that at this point building societies and credit unions adopted new technologies more quickly than banks.[85] The importance of computers was recognised during the early 1970s when Bob Vagg predicted that 'Computers are to become the nerve centres of banks (they are well on the way already), and will handle virtually all transactions.[86] As the finance industry emerged during the course of the late 1970s and early 1980s, technology and product innovation came to be intertwined, and something of the impetus behind product development was technology itself.

---

[84] This being of course a reference to Anne Summers' *Ms* magazine. See ibid., p. 19.

[85] For a discussion of the uptake of technology in the financial sector, see the *Financial System Inquiry Report*, (Canberra: Australian Government Publishing Service, 1997), p. 584.

[86] Vagg, p. 32.

1975-1984: Rapid expansion in the funds management business

Despite the fact that, in the late 1970s, Australian stockbrokers were not heavily advertising their services like their American counterparts,[87] their fortunes changed considerably from the early 1980s onwards with the rapid expansion of the financial advisory sector. This was despite the fact that state Corporate Affairs Commissions first began issuing financial planning licences in 1970, with well-known financial figure Austin Donnelly being the first to receive one. During this period there was also a significant entry of other players into the industry who did not necessarily hold a stockbroking licence and who had previously worked as insurance sales people.[88] In 1975, Robert Morrison, who was at that point with AFT, recognised that there was a 'niche for independent advisers', and by late 1976, was offering clients a range of investment products over and above those offered by AFT.[89] In fact, Morrison has been credited for being the first Australian to manage funds without a stockbroking licence, and of course became well-known for introducing the 'Investicare' portfolio management service in June 1984.[90] Advertisements for 'Investicare' appearing in

---

[87] B Williams, 'Does it Pay Brokers to Advertise?', *Australian Stock Exchange Journal* Nov 1977, pp. 25-26.

[88] L Pickersgill, 'A Journey of a Thousand Miles...', *Personal Investment* Aug 1993, p. 119.

[89] Ibid.

[90] Ibid.

Personal Investment magazine at the time featured the image of a menacing bulldog with the slogan, 'Your Investment Watchdog', a 'fully independent investment monitor service, a dedicated watchdog over your affairs'.[91]

The expansion of the financial advisory industry took place within a particular social and political context, brought about by a range of legislative changes initiated by the Federal Government, including the lifting of restraints on investment in foreign equities in 1981,[92] the de-regulation of the banking industry, and the implementation of compulsory superannuation. The Australian Investment Planners Association formed in 1983 following an international conference in 1982; it was later renamed the Australian Society of Investment and Financial Advisors, before being relaunched as the Financial Planners Association in 1992. The birth of the industry had particular consequences for the investor, who rose in unprecedented ways to public prominence, and around whom a whole new service industry came to evolve.[93]

The launch in July 1983 of the monthly magazine, *Personal Investment*, which incorporated the *Australian Stock Exchange Journal* (and later became *Personal Investor*),

---

[91] See *Personal Investment* June 1984, pp. 100-101.

[92] For a brief history of these developments, see Gregg.

[93] M McNeil and G N Soutar, 'Financial Advisory Services in Australia: a Review', School of Management, Curtin University of Technology, Paper No. 3-91, Nov 1991, unpaginated.

signalled a recognition that ordinary Australians were interested in finding out information about investment management and needed advice on what range of products were available to them. Stating in its first editorial that it will 'provide a new service for personal investors, looking...at how people can manage their personal financial affairs',[94] its first edition sold out—evidence that there was a ready and willing market for the sorts of investment advice it offered.

The educational pitch of magazines like *Personal Investment* suggests, however, that although Australians were interested in investment, they were not always *au fait* with financial concepts and terminologies, and did not know how to go about getting reliable financial advice, and how financial products were distributed. In August of 1983, the magazine ran an article on 'How to Rate Your Investment Adviser', in which, among other things, it looked at the issue of how investment advisers were required by law to be licensed with state Corporate Affairs Commissions, and the problem of commissions being paid to advisers who recommended particular investment products—signalling a debate about the independence and reliability of financial advisers that has extended well into the present, in often remarkably unchanged terms.[95]

---

[94] See editorial, *Personal Investment* Jul 1983, p. 4.

[95] See, for example, B Madden, 'Your Good Advice Guide', *Personal Investor* May 2003, pp. 50-51.

During the 1980s, the financial planning industry became one of the largest growth industries in Australia—becoming in fact the service industry that underwent greatest expansion during this period.[96] Part of this explosion in growth can be accounted for by the fact that there was a rapid increase in financial products. Funds held by public unit trusts, for example, were estimated to have increased by 300% between September 1985 and June 1989, to $26 billion.[97] In terms of preferred investment choices, property trusts became, during the early 1980s, a popular investment vehicle.[98] Cash management trusts were also an investment phenomenon of this period, providing small investors with a 'realistic return on their funds for the first time'.[99] The mortgage trust market also opened to small investors through the launch of the Hatmax Investment Trust, which enabled investors to invest in small amounts upward of $2,000.[100] Some regarded equity trusts in 1983 as the investment of the year.[101] In recognition of the increasing popularity of property trusts, *Personal*

---

[96] M McNeil and G N Soutar, unpaginated.

[97] Ibid.

[98] *Personal Investment* Aug 1983, p. 8.

[99] *Personal Investment* Aug 1983, p. 38.

[100] *Australian Stock Exchange Journal* Oct 1981, p. 6.

[101] *Personal Investment* Nov 1983, p. 37ff.

Investment magazine launched in November 1983 its first Property Trust Performance Guide.

The changing social conditions and needs of Australians, however, also brought about growth in the industry. There was, for example, an increased number of retirees receiving large retirement lump sum payments and consequently, a need for such payments to be reinvested. It has been also suggested that with the diversification of available financial products, Australians needed help in 'sorting through the myriad of financial products and services available...' For the purposes of convenience, they preferred to deal 'with one generalist rather than an army of specialists'. With higher levels of affluence and better standards of living, people were able to purchase services that had previously been beyond their reach, and were becoming more occupied with planning for their future.[102] Estimates suggest that there were, as of 1984, more than 180 active investment advisers operating across Australia.[103] At this time, banks had lost some ground in the financial advice industry due to a perceived conflict of interest between the advice given and the need for the banks to promote their own services and products.[104] Developments like the

---

[102] The above quotes from M McNeil and G N Soutar, unpaginated.

[103] B W Dobson, 'The Investment Advice Industry in Australia', MBA thesis, University of Melbourne, 1984, p. 1.

[104] Ibid., 1.

ANZ Bank's purchase of AFT was seen by some as reversing this trend. When the ANZ purchased Development Finance Corporation, they also purchased AFT. This facilitated ANZ's 'smooth entry into the unit trust market and AFT a chance to market its products in another 950 outlets spread all around Australia'.[105] The expansion of the financial advisory industry is evidenced by the fact that the Australian Investment Planners Association was based in Sydney, while the Investors Advisory Centre operated in Melbourne. Robert Morrison, now of Robert Morrison and Associates, anticipated that investment advisers, 'as we now know them in Australia will develop into 'financial planners', as has happened in the US'.[106]

Just as there were developments during this period in the types of financial products available, there were also innovations in how investors accessed financial advice. Of particular significance was the establishment in early 1984 by Sydney-based sharebroker, Jackson, Graham, Moore of a 'walk-in investment parlor' in Sydney for small investors, while a similar development took place in Melbourne—the Investment Shop in Queen St, which comprised a consortium of advisers, including the Investors Advisory Centre,

---

[105] Ibid., p. 5.

[106] Quoted in G Cochrane, 'How to Rate Your Investment Adviser', *Personal Investment* Sep 1983, p. 39.

International Commercial Services, and chartered accountants and stock-brokers.[107] By this time, the Paul Terry Corporation had also launched its Monitor Personal Investment Planning Program, advertising this service in the printed media.[108] Canberra-based Australian Investment Advisers was also operating in 1983, offering financial consultation via mail.[109]

The year 1983 also saw technological initiatives in the service delivery of financial information. During this time, merchant banker, Hill Samuel, launched a recorded service in Sydney, Brisbane and Melbourne to 'keep investors abreast of economic events and interest rates'. The Australian Bureau of Statistics had also launched its public service known as 'Dial-a-Statistic'; and Quotrader was also in operation, providing an electronic information source which had been trialled successfully in the US.[110] Growthlink Share Trust, which had performed particularly well in 1983, had by early 1984 established a telephone information service for its unit holders—enabling them to listen each day to the price of their units, and to listen to weekly updates from the Trust's managers.[111] By April

---

[107] E Blackman, 'Fresh Pickings', *Personal Investment* Feb 1984, pp.14-15.

[108] See, for example, *Personal Investment* May 1984, p. 71.

[109] Cochrane, p. 38.

[110] J Corr, 'Fresh Pickings', *Personal Investment* Nov 1983, p. 17.

[111] Blackman, p. 14.

1984, a national, 24-hour, seven-days-a-week live (not pre-recorded) telephone service for investors had been launched by the manager of the Australia Liquid Assets cash management trust.[112]

Technology itself assumed greater significance in the growth of the financial sector. Developments in the technology of money management became important during this period—a theme that intensified well into the 1980s and 1990s. The *Australian Stock Exchange Journal*, for instance, featured numerous articles on the changing face of the office environment and the importance of information management. Advertisements appeared in magazines like *Personal Investment* for computer services to assist individuals in negotiating 'today's financial maze' and secure their 'financial future'. An advertisement for Norwich Life's 'entirely new, unique and confidential "On-the-spot" computer service' was meant to provide 'immediate answers for your personal financial planning'.[113] The use of computers to gain access to financial data was also being encouraged in the early 1980s. Even in 1983, services like the ACI computer base Ausinet, I.P. Sharp Associates' Data Analysis Service and the Midas system run by the Overseas Telecommunications Commission enabled investors to link up their home computers to a surprisingly large range of 'data banks'. Ausinet, for example, provided electronic access to written information,

---

[112] 'Fresh Pickings', *Personal Investment* Apr 1984, p. 22.

[113] *Personal Investment* Aug 1983, p. 45.

including access to articles published in the *Australian Financial Review;* while the Sharp service could provide statistical information from the Australian Bureau of Statistics and the Sydney Stock Exchange.[114]

Although it is difficult to quantify exactly the extent to which, during the early 1980s, technology impacted on both the development of investor culture and the diversification of managed investments, it is certainly clear that it facilitated improved access to financial information. Accessibility was in fact a defining theme of this era. Greater accessibility was achieved through an increased interface between the public and the investment community via such developments as the establishment of shop fronts, increased advertising in the financial press, and innovations in communications.

1985-1994: crisis, collapse and the re-building and re-alignment of the funds management industry

From the early to mid 1980s, there was not only an increase in the interface between the public and the financial advice industry; there was also increased emphasis on convenience. A range of developments took place which broadened the scope and spread of the industry.

---

[114] D Wright, 'Advantages of Microcomputers Can Add Up', *Personal Investment* Aug 1983, pp. 48-49.

However, this process was interrupted by the stock market crash of October 1987, which signaled a change in the ways in which products were advertised and emphasised.

The distribution of funds management products also became the source of some controversy. Following the lifting in 1983 of restrictions on investment in foreign securities, international fund managers began to expand their services in Australia, establishing retail funds.[115] Competition between fund managers also increased, with allegations that managers such as AMP and National Mutual were attempting to control the distribution network of advisers who were not aligned with any particular institution.[116] Funds managers were also establishing investment services with toll-free numbers—an example being Westpac, which had a network of 15 advisory centres based in Melbourne.[117] Controversy over the independence of advisers was highlighted by further allegations in 1987 that large fund managers like AMP, National Mutual and Legal & General were paying large commissions to advisers to recommend their products.[118] Tom Collins, managing director of Moneylink observed at the time that 'traditional suppliers of services are trying to dominate the industry with vertical integration. The independents,

---

[115] Gregg, 3.

[116] Ibid., p. 14; see also *Money Management* Aug 1988.

[117] Gregg, p. 15.

[118] Ibid., 16; see also *Money Management* Dec 1987.

who were once a force in the industry, are being over shadowed'.[119] One of the consequences of this was the potential for funds not offering appropriate commissions to fall by the wayside. During the 1980s, and as a result of the influence of overseas funds managers, marketing became more sophisticated, often focused around corporate image rather than specific products.[120] Unit holders in the Australian Liquid Assets Trust were invited to an investment seminar on board the P&O cruise ship, Oriana, with those who accepted receiving a discount on the cost of the cruise.[121]

Other developments were also taking place. By the mid 1980s, investment advisers had begun to 'de-centralise' their services, moving out into the suburbs in order to reach a growing market of small investors.[122] Alan McCormack, director of Bain Investment Services, one of the stockbrokers involved in this expansion, argued at the time that the rationale behind the initiative was that stockbrokers were regarded as 'inaccessible' and 'not much concerned about the smaller investors'. By moving to the suburbs, the intention was to become more accessible to people.[123] At this point, Bain Investment Services had

---

[119] Quoted in Gregg, p. 16.

[120] Ibid., p. 17.

[121] Dobson, p. 21.

[122] R Greenwood, 'Advisers branch out to suburbs', *Personal Investment* Jun 1985, pp. 50-54.

[123] Ibid., p. 51.

offices in Grafton, Tamworth, Wagga Wagga, Canberra and Townsville. Typically, it advised investors who were over the age of forty, were planning early retirement, and had been referred on to the stockbroker by a lawyer or accountant.[124] But perhaps another un-stated rationale for the expansion of stockbrokers into the suburbs was the fact that other professions were beginning to make inroads into the financial advice industry. During the mid 1980s, for example, lawyers were beginning to offer advice in such areas as property trusts, equity trusts, and the secondary-mortgage market.[125] Hence, competition was increasing, a problem for the finance industry as it faced difficulties in recruiting appropriately qualified staff at this time.

Greater gender diversification in the targeting of investment products also continued during this period. Although investment shows aimed at the small investor had been held for some time, including the inaugural 'Investment '84' money fair held in June 1984 at Sydney's Centrepoint Exhibition Centre, more specific congresses began to be organised for women as well. The Women's Investment Network was established in 1983. In February of 1986, the 'Portfolio Independent Woman Financial Congress '86' was held in Melbourne, Brisbane and Sydney, sponsored by Sportsgirl, Legal & General, Sheraton-Wentworth Hotel and Ansett Golden Wing. By February 1986, AMP was advertising its

---

[124] Ibid.

[125] A Bowne, 'Making a Dollar with Legal Aid', *Personal Investment* Jun 1985, p. 75.

‘AMP Women’s Advisory Service’ in the printed media, stating in one advertisement that ‘Every woman can be financially independent’. Promoting its free publication, *AMP’s Financial Strategies for Women,* the advertisement stated that:

> *You can be in control of your destiny—building towards something real...*
> *No charts and graphs, far from it—you will read how nine different women with very different needs and circumstances can establish their own kind of financial independence—told in very warm and straightforward words.*[126]

Part of the rationale behind this move towards recognising the female financial investor was the fact that not only were women continuing to make inroads into the workforce; divorce figures were also increasing.

Prior to the 1987 crash, there were other significant developments in the funds management industry as well. During the course of the mid 1980s, foreign equity trusts were promoted in the printed media. The July 1985 edition of *Personal Investment,* for example, ran an advertisement for the Swiss International Trust, which ran with the slogan, ‘Announcing a unit trust that invests your money with all the skill of a Swiss banker, all the

[126] *Personal Investment* Feb 1986, p. 31.

security of a Swiss bank'.[127] At this point the industry witnessed the development of a new investment category that has continued on until the present: the ethical fund. In late 1986, Friends' Ethical Managed Fund was advertising in the financial press with the motto: 'Are you investing with a clear conscience?' The Fund was formed to 'meet the needs of individuals and funds wishing to invest in a Managed Portfolio which avoids areas sensitive to the community', including companies involved with 'armaments, alcohol, tobacco, gambling and uranium industries', as well as companies with dealings in South Africa.[128] The development of such a fund on the retail level reflected ongoing consumer concerns about the environment, as well as the situation of apartheid in South Africa, emphasising the extent to which the funds management industry is able to respond to the needs and concerns of its time.

Other developments at this time included the expansion of a publications industry focused on providing advice on investment types and strategies; and, consistent with a tradition that began in the 1970s, the Australian Stock Exchange continued to run a public lecture series on investment, topics of which included 'Unit Trust Investment' and 'Personal Portfolio Planning and Management'.[129] The implementation of technology

---

[127] *Personal Investment* Jul 1985, pp. 74-75.

[128] See *Personal Investment* Dec 1986, p. 155.

[129] These particular themed lectures were run in Melbourne in 1988.

within the finance sector continued, with Telecom advertising during the course of 1986 its Viatel service, which enabled investors with PCs to 'bank from home',[130] and which by 1987, allowed investors to manage their investment portfolios electronically. Convenience to the investor was also provided by Investment Products, which advertised a mail order service, which included a service for mailing-out the prospectuses of pre-selected trusts. In its advertisements, it included a coupon with the list of available prospectuses, which the reader ticked and then returned to Investment Products via free-post. Until the October 1987 crash, convenience was the theme of the funds management industry, and ancillary industries like Investment Products were designed to service the growing demand for convenience.

Up until late 1987, the funds management industry was promoted in often exuberant and ostentatious terms: magazines like *Personal Investment* tended to feature the stories of investment managers, advisers or investors against a backdrop of Ferraris, tennis courts, pools and mansions, leading one disgruntled investor to write into the magazine complaining of 'advertisements disguised as general interest features describing the excesses of people in "rich men's toys"'.[131] The financial world was promoted as limitless and boundless in potential—summed up by Jardine Fleming's advertisement for its

---

[130] See *Personal Investment* Mar 1986, p. 83.

[131] *Personal Investment* Mar 1987, p. 21.

international equity trust, JF Pacific Growth Trust, which ran the slogan, 'Making the World Your Oyster'.[132]

For many small investors, however, in the months following the crash of October 1987, the boundaries of this world contracted. The tone of advertising and product development became more conservative and the emphasis was on risk minimisation. In June 1991, Adviser Investment Services ran an ad in the financial press with the motto, 'What could be more secure than ANZ, National Mutual, Mercantile Mutual, AMP, Advance Bank, Colonial Mutual, and Bankers Trust? A Service that invests only in them'.[133] Investors tended to focus more on cash-based investments. Following the crash of the unlisted property sector in mid 1990, RetireInvest was advising its clients to redeem all investments in such trusts,[134] and there began a debate about the creation of a secondary market to over-come the liquidity problems of the unlisted property sector.[135]

---

[132] *Personal Investment* May 1986, p. 21.

[133] *Personal Investment* Jun 1991, p. 59.

[134] J Eastway, 'Property Trusts: Will you ever get your money out?', *Personal Investment*, Jan 1991, pp. 38ff.

[135] J Eastway, 'Salvation through a Secondary Market?', *Personal Investment*, Apr 1991, pp. 34ff.

By 1993, then President of the Financial Planning Association, Paul Clitheroe, noted that times were changing in the funds management industry. Presciently, he characterised this movement as one away from an 'entrepreneurial, product-based environment to a service-based environment'—the implications of which have continued into the present. In 1991, *Personal Investment* magazine remarked that most advisers surveyed in its annual review of advisers and brokers were offering to work for a fee rather than receiving a commission from investment companies.[136] As the industry developed from the mid 1990s onwards, fees, commissions and the independence of financial advisers continued to pre-occupy small investors, as did financial security and optimisation.

1995-2005: Consolidation and diversification

Although 1995 to 2005 has represented for the funds management industry a period of paradox—both of diversification in the range of products available, yet consolidation in the form of significant mergers—challenges still lie ahead for the industry in terms of responding to retail investor needs.

One challenge is the continuing poor savings record of many Australians. Between 1995 and 2001, savings patterns fluctuated, with households more able to save between 1995 and 1999 than between 1999 and 2001, when savings declined. In a paper

[136] 'The Best Advice', *Personal Investment* Jul 1991, p. 55.

commissioned by the Financial Planners Association, it was noted that low house-hold cash savings remained a critical issue facing Australians in the future.

The way in which the financial advice industry markets itself continues to generate interest. In its 2002 consumer survey, the FPA noted that despite transformations and innovations in the financial advice industry, women were more likely to seek financial advice from friends/family or banks/credit unions/building societies, while men were more inclined to seek advice from a financial adviser.[137] Results also indicated that financial planning focused mostly on retirees and older Australians, at the expense of people under the age of 35.[138] In 2004, FPA conducted a telephone survey on consumer sentiment in relation to financial planning. Of the 800 respondents, 40.5% indicated that they would use a financial planner when seeking financial advice; 16.5% would approach an accountant; 15.3% would approach the manager of a bank, credit union or building society; and 14.5% would contact friends/family.[139] The same survey suggested that between 1997 and 2004,

---

[137] As reported by A Crompton, 'Winning Friends and Influencing People', *Financial Planning* Aug 2002, p. 18.

[138] Ibid., p. 19.

[139] See http://www.fpa.asn.au/images/userimages/consumersentiment.report.doc. 'Financial Planning Association 2004 Consumer Sentiment Survey'; accessed on 23 June 2005.

the use of financial planners as the principal source of financial advice increased by 19.2% while the figure for accountants declined by 10.5%.

Given significant legislative changes, including changes to the regulation of the financial services industry, the popularity of some investment products have waned, while others have increased significantly. During the course of the 1990s, the financial press has focused its attention on investment vehicles such as master trusts, which offer a 'menu' of investment choices, and simplify reporting for taxation purposes.[140] ASSIRT estimated that master trusts increased ten-fold between 1994 and 2001, from $9.6 billion to $90 billion.[141] As *Personal Investor* noted, this increase was not 'bad for a product type that began as a technologically driven aid by which to administer your investments'.[142] However, the hidden fees of these trusts remain a topic of debate.

In the context of this period of diversification and consolidation, so-called 'boutique' fund managers have also emerged as a force in the industry, although estimates made in 2002 that in 2005 50% of all investment managers would be boutique now seem odd. The boutique concept has, as its primary selling point, the idea that boutiques are 'an attractive

---

[140] See *Personal Investor* Oct 1999, p. 45.

[141] As reported in *Personal Investor* Jan 2002, p. 45.

[142] As reported in *Personal Investor* Jan 2002, p. 45.

alternative to the mega institutional funds management firms that are obsessed with being big'. Although up to 2002, large superannuation funds were the main investors in boutique managers, times have changed and that year there appeared some boutique investment products open to retail investors, a process that has continued until the present.[143]

Changes in the relationship between the funds management industry and its customers will doubtless continue in 2005 and beyond, reflecting and shaping in turn the changing priorities of the now financially savvy Australian. In looking back and moving forward, we can see the extent to which the industry has evolved, developed and complexified, reminded of how things have changed since Miss Milne wrote her letter to AFT, congratulating them on continuing to provide an investment that has a 'definite place' in the community.

4. Regulation

Given the level and complexity of regulation to which managed funds and their operators are now subject it seems astonishing that, only fifty years ago, the sector was pretty much unregulated.

---

[143] S Hely, 'Why a Boutique Fund Manager?', *Personal Investor* Mar 2002, p. 27.

That is not to say they operated outside the law. In a legal sense, managed funds have been around for many years, having their genesis in the deed of settlement companies of the 18th and 19th centuries.[144] The general law provided a form of 'private regulation', imposing as it did fiduciary obligations on trustees, including obligations to act in good faith in the interests of the investors, and for a proper purpose, that could not be excluded. However the restrictions around fundraising by companies, and the burgeoning investor protection provisions included in company law, did not apply to these alternative investment arrangements, and investment vehicles structured in this way were not subject to governmental oversight and control.

Early regulation of 'prescribed interests'

This changed in 1955, with the amendments made in that year to the Victorian companies legislation. The Victorian Statute Law Revision Committee, in a Report made in 1954, said that it had 'heard considerable evidence, with regard to unit and option certificates, lots, concessions, and other forms of interests in or in the undertaking of business'. One of those giving evidence before the Committee was, of course, the redoubtable Charles Allerdice of AFT. Noting that such forms of interest were issued outside the legislation

[144] For a discussion of the evolution of the unit trust as a vehicle for investment, see R Hughes *The Law of Public Unit Trusts* (1991) 26-35 and K F Sin *The Legal Nature of the Unit Trust* (1997) 7-32.

controlling the issue of shares to the public, the Committee concluded that 'this field provides opportunity for fraudulent practice',[145] and recommended reform.

In response the Victorian Parliament introduced measures to regulate the promotion of these alternative investment arrangements. These measures prohibited the offer of interests in such schemes by anyone other than a public company, and required the issue of a prospectus in relation to the offer, the appointment of an approved trustee, and the adoption of an approved deed. The operator of the scheme was required to use its best endeavours to carry on and conduct the business of the company in a proper and efficient manner and to ensure that any business or scheme to which the deed related was carried on and conducted in a proper and efficient manner. It was also required to provide certain information to the trustee and to convene a meeting of the investors on their requisition.

By the time of the enactment of the (largely) uniform companies legislation across the Australian States in the early 1960s, a similar approach to regulation had been adopted in other States. The regulatory requirements had expanded to include additional obligations on the operator (now called the 'management company'), including to pay scheme moneys over to the trustee; to sell units only at a price calculated in accordance with the deed

---

[145] Parliament of Victoria *Report from the Statute Law Revision Committee on Amendments of the Statute Law to Deal with Fraudulent Practices by Persons Interested in the Promotion and/or Direction of Companies and by Firms* (26 October 1954).

(effectively, at net asset backing); to buy back interests on request; and to obtain trustee approval for scheme advertisements. Additional reporting obligations had been included, along with restrictions on dealings with related parties.

This basic pattern of regulation, which shared much with the regulation of debenture issuers, continued through the co-operative scheme of uniform companies legislation and was adopted in the national Corporations Law in 1991. It remained in place (subject to various enhancements) until 1998. The key features of this framework included: imposing basic rights and obligations on the parties by requiring the inclusion of mandatory covenants in the trust deed; imposing a performance standard on the operator (to ensure the scheme is carried on in a proper and efficient manner); and requiring the appointment of an approved trustee to supervise the operator and watch over the interests of the investors.

The commencement of the Corporations Law on 1 January 1991 saw two significant changes in the regulatory pattern. First, managed funds came under the direct supervision of a national regulator, the Australian Securities Commission. Secondly, the old 'checklist' approach to mandatory pre-sale disclosure was abandoned in favour of a broad test requiring the disclosure of all information that an investor and their professional advisers would require to make an informed investment decision. However the key structural features remained, now contained in Division 5 of Part 7.12 of the Corporations Law. It required that each scheme: (i) be constituted under an approved deed that contained the

(extensive) mandatory covenants required under the former sec 1069; (ii) be managed by a management company that was a public company holding a securities dealers licence under the former Part 7.3 of the Corporations Law; and (iii) have a trustee that was independent[146] of the manager and approved to act as trustee by the Australian Securities Commission (ASC).[147]

The management company was usually the promoter of the trust and responsible for managing its assets, and was described by the ASC has having 'principal responsibility for the management and administration" of the trust.[148] The trustee was required to hold trust assets, to monitor the management company's compliance with the Corporations Law and the trust deed, and to watch and protect the interests of members.[149] Interests in the scheme

---

[146] A trustee related to the manager was permitted in limited circumstances, under ASC Policy Statement 90 (18 September 1995).

[147] The ASC was the predecessor to ASIC.

[148] ASC Policy Statement 89 (6 February 1995) para [22].

[149] ASC Policy Statement 89 (6 February 1995) 22]-[28]. For a detailed discussion of the respective roles of the management company and the trustee under the prescribed interest laws, see *ASIC v ABC Fund Managers (No 2)* (2002) ACLC 12 at 125 (Warren J). See also P Hanrahan *Managed Investments Law & Practice* (CCH Looseleaf) ¶2-300 and P von Nessen *A Practical Guide to Managed Investments* (1998) Chapter 2.

were ‘securities’ for the purposes of the Corporations Law and issues of interests were regulated under the prospectus laws. Further, managed investment schemes became subject to continuous disclosure requirements from 1994.

Immediately after the commencement of the Corporations Law in January 1991, the crisis in the unlisted property trust sector prompted emergency legislation to freeze redemptions and allow space for the sector to restructure. In a striking example of law-making by press release, investors in unlisted property trusts had their right to redeems suspended for 12 months by a statement by Treasure Kerin at 4.50pm Australian Eastern Standard Time on 23 July 1991. Legislative backing for the suspension followed some five months later, with the enactment in November of the *Corporations (Unlisted Property Trusts) Act 2001*.

Reform and the MIA

This apparent consistency in regulatory approach from 1955 to 1998, however, masks some long-standing concerns about the efficacy of the old debenture based model, with its *ad hoc* enhancements and two-headed operating structure. Concerns about the structure had been expressed by the Rae Committee as far back as 1974. The Campbell Committee in 1981 pointed out the need for comprehensive reform, suggesting that separate legislation for collective investment schemes be considered. In 1988 the Companies and Securities Law Review Committee examined the regulation of prescribed interests under the Companies Codes, and recommended extensive reform. In 1990, the NCSC Unit Trusts Task Force also recommended a full-scale review.

On 24 May 1991, the then Attorney-General Michael Duffy handed the Law Reform Commission a reference to review and report on whether 'the present legal framework for collective investment schemes provides the most efficient and effective legal framework for the operation of various kinds of such schemes and, in particular, whether a different operating structure should be provided for such schemes, including whether separate structures should apply to different kinds of schemes'.

Working with the Companies and Securities Advisory Committee (CASAC), the ALRC kicked things off with the launch of its Issues Paper 10 in September 1991. Under the leadership of Justice Elizabeth Evatt, ALRC held hearings and received submissions. Having separated out superannuation and addressed that area in the first half of 1992, ALRC and CASAC then refocused attention on prescribed interests in Discussion Paper 53, released in October 1992. Following further submissions, its Report No 65, entitled *Collective Investments: Other People's Money* was released in 1993.

Clearly in the sights of ALRC and CASAC was the independent trustee. Perhaps the most significant feature of the Report is its conclusion that the independent trustee as 'watchdog' for investors' interests had been unable to protect those interests and had created a regulatory structure under which neither trustee nor manager was effectively accountable to investors. The Report concluded that 'the current mandatory trustee and management company arrangement for prescribed interests is unsatisfactory. The rules governing the distribution of powers and responsibilities between the two parties have developed in an ad hoc fashion. In theory, the system should … afford investors appropriate protection. Unfortunately, in practice, the scheme has failed to prevent some

significant instances of non-compliance with the law. It appears to offer additional security for investors because it involves a trustee that is independent of the management company supervising the actions of that company on their behalf. This additional security, however, is at times illusory. The system contains fundamental legal and commercial contradictions.'[150]

The Report recommended, among other things, that the requirement to appoint both a management company and a separate independent trustee be abolished and replaced with a requirement for a single 'responsible entity'. This responsible entity was to 'have a clear set of obligations, prescribed by law, that it owes directly to investors in the scheme. These would include the obligation to act honestly in all matters concerning the scheme and to prefer the interests of the investors to its own interests in all matters concerning the scheme'.[151] Each director of an incorporated operator should 'owe to scheme investors the same general duties that the Review proposed should be owed by the operator itself. This proposal was designed to overcome a gap in the existing regulatory framework'.[152] The requirement for an approved deed containing prescribed covenants would be replaced with the requirement to have an enforceable constitution the provisions of which were not

---

[150] Para 12.3 of *Report No 65.*

[151] ALRC/CASAC *Report No 65 - Summary*, [11].

[152] ALRC/CASAC *Report No 65* [10.15].

inconsistent with the statute, and the compulsory buy-back requirement would be removed. Investors be given the right to replace the responsible entity, wind up the scheme, and amend its constitution.

A draft bill reflecting these recommendations was released for public comment in December 1995. In addition the bill provided for certain mandatory governance structures, including a legally binding compliance plan, an independent custodian for scheme assets, and a compliance committee or a majority independent board. Fund managers argued against the re-introduction of the requirement for an independent custodian, even one with a more limited and clearly defined role than that of the trustee under the prescribed interest laws. (They ended up winning that argument, to an extent.[153])

Not surprisingly, the proposed reforms were opposed by the trustee companies, both individually and through their umbrella organization, the TCA. The existing regulatory regime underpinned a significant revenue stream for the approved trustee companies. A long and sometimes acrimonious tussle between proponents of the reforms and those opposed to them ensued. Following his appointment in 1995 as CEO of Perpetual Trustees, former lawyer, Harvard graduate and McKinsey's partner Graham Bradley galvanized the opposition. If nothing else, his campaign bought some time for those trustees wise enough

[153] There is no legislative requirement for an independent custodian, but ASIC policy requires it where the operator's financial and organisational resources do not support self-custody.

to take advantage of it. The 1995 draft legislation was eventually passed, but not until 1998, with full implementation not required until mid-2000. Bradley's stewardship of Perpetual lasted until 2003; over that time it was transformed into one of the leading listed fund managers. Despite the enactment of MIA, his eight years as managing director saw the group's revenues grew from $80 million to $265 million, its after tax profit from $11 million to over $78 million and market capitalisation from $140 million to $1.5 billion.

When enacted in June 1998, the MIA followed closely the form of the 1995 bill, (except that the requirement for an independent custodian had been removed).[154] While MIA is most clearly identified with the removal of the independent trustee, it is also noteworthy for a number of other reasons. It reversed the old requirement for redemption of units, imposing instead restrictions on the redemption of units by illiquid trusts. It also had the very significant effect of making the applicable law much more 'public' in its character. Prescribed interest schemes were essentially private arrangements between the parties, underpinned by legislative provisions and buttressed by mandatory disclosure. In contrast, managed investment schemes are very much creatures of statute. Managers and

---

[154] For a more complete treatment of the collective investments review and the legislative history and development of the MIA, see P Hanrahan, *Managed Investments Law & Practice*, ¶2-400 to ¶2-600 and P Hanrahan "(Ir)responsible entities: Reforming manager accountability in public unit trusts" (1998) 16 *Company and Securities Law Journal* 76-92.

the officers are subject to direct legislative control, and criminal sanctions and civil penalties can be imposed for breach of the mandatory governance requirements. Investors have access to a wide range of statutory remedies, and ASIC's licensing and registration powers give it a much higher level of control over the industry than it had before MIA.

Takeovers

Further changes to the regulatory framework followed MIA in March 2000, with the commencement of CLERPA.[155] Prior to that time, the acquisition of control over interests in a listed scheme was not subject to regulation in the same way as the acquisition of control over voting shares in a listed company. That position was reversed by CLERPA, which extended the application of the takeovers code (contained in Chapters 6 – 6B of the then Corporations Law) to the acquisition of voting interests in a listed managed investment scheme.

The rationale for extending takeovers regulation to listed (but not unlisted) schemes is that in listed schemes the right to withdraw is suspended and units are traded at a price set by the market.[156] The Explanatory Memorandum for CLERPA states that 'this provides

---

[155] *Corporate Law Economic Reform Program Act 1999.*

[156] However this is not the case for exchange traded funds, which trade at net asset backing – see Chapter 2 above.

an opportunity and incentive for a bidder to pay a premium over the market price for control parcels of undervalued units'.[157]

The takeovers code is intended to ensure that: the acquisition of control takes place in an efficient, competitive and informed market; the investors and the responsible entity know the identity of the acquirer, have a reasonable time to consider the proposal, and are given enough information to assess the merits of the proposal; the investors have a reasonable opportunity to participate in benefits flowing from the proposal; and an appropriate procedure is followed for compulsory acquisition.[158]

FSR

In 1998, the MIA completely rewrote the laws for the establishment and conduct of retail managed funds. In 2002, FSR had the same effect on the laws governing the nature and activities of fund managers, and the sale of fund investments.

Under FSR, the dealer licensing provisions that had previously applied to responsibility entities were repealed and replaced with a new regime, contained in Part 7.6 of the Corporations Act, which provided for the licensing of all financial services providers, including those operating registered schemes and (for most practical purposes) wholesale

---

[157] Explanatory Memorandum to the Corporate Law Economic Reform Program Bill 1998 [7.47].

[158] Section 602 of the Corporations Act.

schemes. At the same time, the mandatory disclosure laws in Chapter 6D of the Corporations Act that apply to the offer of securities ceased to apply to offers of interests in registered schemes. Instead, offers of interests in all registered schemes were made subject to the PDS regime in Part 7.9 of the Corporations Act.

For managed investment schemes in existence prior to 11 March 2002, a two year transitional period applied, given them until 11 March 2004 to comply with the new requirements.

The main impetus for FSR came from the findings of the Financial System Inquiry (FSI) conducted at the behest of the Commonwealth Government in 1996-7. The FSI was charged with undertaking a stock take of the effects of deregulation of the Australian financial system during the 1980s and 1990s, and making recommendations on 'the nature of the regulatory arrangements that will best ensure an efficient, responsive, competitive and flexible financial system to underpin stronger economic performance, consistent with financial stability, prudence, integrity and fairness'.[159]

The FSI's Final Report, released in March 1997, included a number of recommendations relating to licensing and disclosure. FSR was the legislative response to

---

[159] Terms of Reference for the Financial System Inquiry, announced by the Treasurer the Hon Peter Costello MP on 30 May 1996.

a some of those recommendations. The Explanatory Memorandum to the FSR Bill says that 'the FSI found that financial system regulation was piecemeal and varied, and was determined according to the particular industry and the product being provided. This was seen as being inefficient, as giving rise to opportunities for regulatory arbitrage, and in some cases leading to regulatory overlap and confusion. To address these deficiencies, the FSI proposed that there be a single licensing regime for financial sales, advice and dealings in relation to financial products [and] consistent and comparable financial product disclosure…'.[160]

Prior to FSR, responsible entities had been licensed under the securities dealer licensing provisions in the former Part 7.3 of the Act. That licensing regime was, under FSR, subsumed by the new AFS licensing regime.

Now, as entities that carry on a business of providing financial services,[161] responsible entities are required to hold an AFS licence. As licensees, they are subject to disclosure and conduct regulation in the provision by them or their representatives of financial services (which are defined to include operating a registered scheme).

---

[160] Explanatory Memorandum to the Financial Services Reform Bill 2001, [1.1].

[161] See Chapter 2 above.

FSR also contains mandatory disclosure requirements that apply in connection with the offer or sale of financial products to retail clients. In making an offer of interests to retail clients, the scheme must comply with the PDS requirements in Part 7.9, rather than the disclosure requirements that apply to securities issues and that are contained in Chapter 6D of the Act and that applied to registered schemes prior to the commencement of FSR.

Implementation of FSR has come at a huge cost, and the whole endeavour has not been without its critics.[162] On 2 May 2005, the Parliamentary Secretary to the Treasurer released a Proposals Paper entitled 'Refinements to Financial Services Regulation'. The proposals contained in the paper respond to concerns raised by the financial sector over the practical operation of FSR. The paper outlined a series of proposals covering 14 separate areas of FSR, including disclosure (with proposed refinements covering FSGs, SoAs, PDSs, oral disclosure and general advice warnings), the scope of regulation (regulation of basic deposit products, non-cash payments and general insurance products, the retail/wholesale client distinction, the secondary services 'look through', the definition of general advice, and jurisdictional reach) and certain operational matters (authorised representatives, staff training). The results of the project should become clear in 2006.

---

[162] See P Hanrahan 'Tinkering with FSR design may get model right' *Australian Financial Review* 1 June 2005.

CLERP 9

The reform project was not finished with FSR. The familiar cycle of boom and bust, followed by knee-jerk legislation, continued with the (domestic) One.Tel and HIH and (foreign) Enron and Worldcom debacles, the US Sarbanes-Oxley legislation and our own CLERP 9. CLERP 9 set out in 2004 to reform legal rules relating to audit and corporate disclosure. Most of the amendments made by CLERP 9 commenced on 1 July 2004, with the remainder commencing (for the most part) on 1 January 2005.

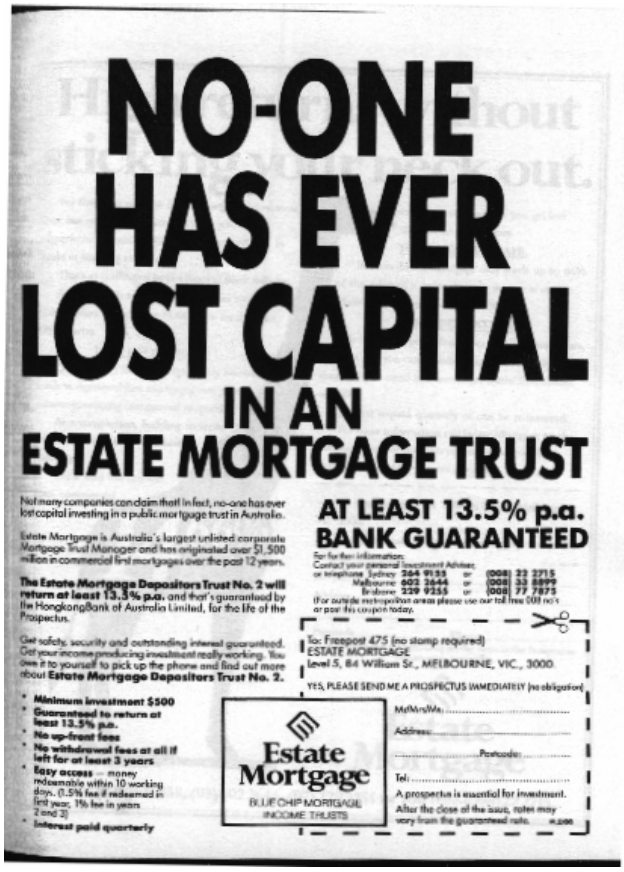
The underlying objective of CLERP 9 was to promote transparency, accountability and shareholder activism in relation to companies. These changes flowed through to the reporting and audit requirements in relation to registered schemes. The key measures adopted by CLERP 9 that affect reporting and disclosure and that flow through to schemes relate to: (i) the manner in which auditors are regulated, their independence from the operator, and their role and responsibilities (including to engage with shareholders and ASIC in relation to the audit); (ii) the way in which accounting and auditing standards are set and operate, and arrangements for the resolution of disputes about accounting treatments; and (iii) expanded enforcement powers for ASIC in relation to continuous disclosure.

The regulatory framework

From 1955 to the mid 1990s, the dual trustee-manager regulatory model prevailed. Managed funds and their operators were regulated as part of the securities markets. But in 1998, Australia struck off in a new regulatory direction, with the idea of a single

responsible entity to run the fund. From 2001, fund managers have come to be regulated very much as service providers, the law governing their products and operations now much more aligned in a regulatory sense with wealth management products (insurance, investments and superannuation) rather than the law of securities and securities dealers.

The pace, volume and cost of regulatory change over the last 10 years have been enormous. It is worth remembering what it is for:



NO-ONE HAS EVER LOST CAPITAL IN AN ESTATE MORTGAGE TRUST

Not many companies can claim that in fact, no-one has ever lost capital investing in a public mortgage trust in Australia.

Estate Mortgage is Australia's largest unlisted corporate Mortgage Trust Manager and has originated over $1,500 million in commercial first mortgages over the past 12 years.

The Estate Mortgage Depositors Trust No. 2 will return at least 13.5% p.a. and that's guaranteed by the HongkongBank of Australia Limited, for the life of the Prospectus.

Get safety, security and outstanding interest guaranteed. Get your income producing investment really working. You owe it to yourself to pick up the phone and find out more about **Estate Mortgage Depositors Trust No. 2.**

- **Minimum investment $500**
- **Guaranteed to return at least 13.5% p.a.**
- **No up-front fees**
- **No withdrawal fees at all if left for at least 3 years**
- **Easy access** — money redeemable within 10 working days. (1.5% fee if redeemed in first year, 1% fee in years 2 and 3)
- **Interest paid quarterly**

AT LEAST 13.5% p.a. BANK GUARANTEED

For further information:
Contact your personal Investment Adviser,
or telephone Sydney 264 9155 or (008) 22 2715
Melbourne 602 2644 or (008) 33 8899
Brisbane 229 9255 or (008) 77 7875
(For outside metropolitan areas please use our toll free 008 no's or post this coupon today.

To: Freepost 475 (no stamp required)
ESTATE MORTGAGE
Level 5, 84 William St., MELBOURNE, VIC., 3000.

YES, PLEASE SEND ME A PROSPECTUS IMMEDIATELY (no obligation)

Mr/Mrs/Ms: .....
Address: .....
..... Postcode: .....
Tel: .....

A prospectus is essential for investment. After the close of the issue, rates may vary from the guaranteed rate. M.2.250

Estate Mortgage
BLUE CHIP MORTGAGE INCOME TRUSTS