# CONVERSATION

## WITH CRAIG DUNSTAN—VASCO TRUSTEES

Partner Langton Clarke chats with Craig Dunstan, Vasco Trustees' managing director, about some red flags for the financial services industry: the growing lack of investor responsibility, the rising cost and reduced availability of professional indemnity (PI) insurance, and changes to the wholesale investor regime.

**CRAIG DUNSTAN**

Managing Director
Vasco Trustees

**LC** *Vasco manages over 65 investment funds and is one of Australia's largest fund services businesses. With the level of compliance responsibility that entails, what do you see as your greatest legal and regulatory challenge?*

**CD** We appear to have moved to a position where trustees are responsible, investment managers are responsible, financial planners are responsible, but the investor carries little responsibility for their own decisions.

The Hayne Royal Commission of a couple of years ago highlighted some practices in the financial services industry that needed to change. The reaction to these matters tends to swing like a pendulum, and right now we are in a difficult period for the industry. Financial planners are leaving the industry in record numbers, professional indemnity insurance is increasingly difficult to obtain and afford, regulatory and compliance costs have increased dramatically, whilst at the end of the day I don't believe the public are significantly better off.

Ultimately, the greatest legal and regulatory challenge for us, and most businesses in the financial services industry, is dealing with the consequences of investors investing in inappropriate funds or funds that do not meet their investment objective.

Whilst marketing practices can always be improved, the best protection for investors is not more laws and regulations, but ensuring investors take greater responsibility for their own investment decisions and make better informed investment decisions.

**LC** *The rising cost and reduced availability of PI insurance is a red flag for the industry. Is there a way out?*

**CD** One of the biggest issues faced by industry participants is the difficulty in obtaining and the rising cost of PI insurance.

For most, PI insurance is compulsory under their AFSL. That is: no insurance, no licence, no business. This may be fine in theory, but it assumes businesses can get insurance at a reasonable cost, which is not the case.

The fallout from the Hayne Royal Commission and the increasingly activist approach of the Australian Financial Complaints Authority mean the level of claims is increasing. Insurance is a business, so if insurers do not make a reasonable margin, they will either withdraw from the market or dramatically increase cost, which is happening now.

It is increasingly difficult to get PI insurance as many insurers are not taking on new clients or even reinsuring existing clients. Premiums have increased dramatically. Marsh Global Analytics reveals a 48 percent increase in financial and professional liability insurance in the last quarter and 12 consecutive quarters of double-digit increases.

We believe ASIC needs to consider this issue and come up with some practical alternatives until the insurance market recovers.

**LC** *Do you have a view about the current wholesale investor definition?*

**CD** The wholesale investor regime needs to change. With more and more financial planners leaving the industry, we are seeing more and more self-directed investors investing in wholesale funds. As a trustee or investment manager, you have no knowledge of the investor's investment knowledge or what percentage of their assets they are investing. However, increasingly it is the investment manager being held responsible.

We believe we need to move towards a regime where investors need to become 'accredited investors' to invest in wholesale funds. We propose investors complete a relevant RG146 course and be approved by ASIC as an accredited investor and issued with a number. Upon investing in a wholesale fund, the investor should be required to declare the amount being invested is no more than 10 percent of their net assets.

These changes would assist significantly as investors are told to gain investment knowledge and diversify their investments. In time, this would become recognised as fundamental.

**LC** *What level of activity are you currently seeing?*

**CD** The funds management industry is very resilient. In our business, when the pandemic first impacted us back in March, we saw a drop off in new business enquiry, a delay in some fund launches, and the closure of some uneconomic funds. However, in the past two months we have had a greater level of enquiry than at any other time in the past 11 years. At the end of the day, people want professionals managing their money to provide funding for their retirement or other life events. If everyone in the industry stays focused on doing their best in their role managing other people's money the future will be good.

**LC** *As an independent trustee offering your services to fund managers, are you investment and asset-agnostic?*

**CD** No, like any business we need to manage our risk profile. We do this in several ways, including due diligence on prospective clients and ensuring our business is diversified across asset classes. Ideally, we would have no more than 30 percent of our funds exposed to any one asset class.

**LC** *What are the top priorities for the funds management industry in coping with and managing this new COVID world?*

**CD** Some of the keys to any business are staying informed on the latest trends and having a flexible approach. Business constantly changes so you need to be prepared to change as well.

One big change is the desire of new players to have a digital marketing and service capability to their fund. From a compliance perspective, this throws up all sorts of challenges, but it is certainly a change we all need to come to grips with.