7. Withdrawing from a collective investment scheme

Introduction

7.1 The apparent ease with which investors can leave collective investment schemes played a large part in their increasing popularity during the last decade. In some cases, however, investors' expectations were not met. In 1991 some investors in unlisted property trusts experienced difficulties when trying to redeem their investments. Eventually all redemptions in these trusts were suspended. This chapter examines how investors leave collective investment schemes and considers whether modifications to exit mechanisms are necessary to improve the efficiency and enhance the stability of collective investment schemes.

Exit mechanisms for collective investment schemes

7.2 There are four ways an investor may be able to withdraw his or her investment from a collective investment scheme:

- redeeming his or her interests from the scheme
- requiring the scheme operator to buy his or her interests in the scheme (buy back)[1]
- selling his or her interests on a recognised exchange or by private arrangement
- terminating the scheme and liquidating its assets.

Not all options are available to investors in all schemes. The mechanisms that have attracted the most attention in recent times are redemption and buy back. Redemption involves the investor being paid out of scheme funds, if necessary by liquidating some of the scheme assets. Buy back involves the manager of the scheme paying the investor from its own funds. Under the Corporations Law managers, unless they have been granted an exemption by the ASC, are obliged to buy from unitholders their interest in the scheme upon request.[2] Where the manager has been required to meet a buy back request, it may, and often does, redeem from the scheme the units it purchased from investors.[3] Investors in some schemes are able to dispose of their interests by selling to another person. Most property trusts, for example, are now listed on the ASX.[4] Listing enables schemes to avoid the liquidity problems associated with redemption and buy back mechanisms.[5] However, ASX listing is not an option for schemes that are not able

1. The term 'buy back' will be used in this chapter to describe all situations where the scheme operator purchases from investors some or all of their interests in a scheme, not just the current mandatory requirement on scheme managers to purchase interests offered to them by investors.
2. Corporations Law s 1069(1)(c).
3. The ability to do this depends on the terms of the trust deed. Most deeds provide for managers to redeem interests they purchase from investors.
4. In 1992, 80% of property trusts were listed.
5. These problems are discussed later in this chapter.

to meet the listing requirements. Terminating a scheme is an option available to investors in all schemes but it would only be used in extraordinary circumstances to facilitate the exit of all investors from the scheme.

Exit mechanisms and investor confidence

7.3 Investor confidence in collective investment schemes is likely to fall, and individual investors may suffer, if investors are unable to withdraw their funds in accordance with their expectations. However, inappropriate or unworkable exit rules may create false or unrealistic expectations in investors as to their ability to liquidate their investments. This occurred with unlisted property trusts, where investors were led to expect that they had ready access to their funds regardless of the state of the property market. The fault lay largely in the nature of the buy back obligation imposed under the Companies Code. The rules governing buy backs and redemptions must be appropriate for the type of scheme invested in. The present rules are not.

Exit mechanisms and commercial stability

7.4 The departure of investors from a collective investment scheme invested only in liquid assets rarely causes commercial instability. The scheme is able to pay out investors either directly (redemptions) or indirectly (buy backs by the scheme manager with a subsequent redemption of acquired interests) because its assets are liquid. The departure of investors from wholly or partly illiquid collective investment schemes, on the other hand, can lead to instability. This is because the scheme operator and the scheme itself may not have enough liquid funds readily available to pay out these persons. If more investors are entitled to leave the scheme than can be paid out from available liquid assets, the operator will need to sell assets of the scheme quickly. This can cause disruption in financial markets.

The compulsory buy back problem

Managers of illiquid schemes cannot be 'banker' to the scheme

7.5 The buy back obligation imposed on managers of prescribed interest schemes may enable investors to withdraw funds from illiquid schemes without the forced sale of scheme assets provided the manager has adequate funds of its own and it does not then seek to have the recently purchased interests redeemed from the scheme. If the manager does seek immediate redemption, as many scheme constitutions allow, the scheme will be in no better position as regards having to sell its assets than if it had been forced to meet a similar redemption request by the investor. The new property trust rules require managers and trustees to maintain the liquidity of the trust at at least 15% of the trust's assets value.[6] These require-

6. Corporation Regulations reg 7.12.15A. The liquidity of the trust is defined to include the liquidity of the trust plus an amount calculated with reference to the management company's liquidity, its assets and the net tangible assets of the trust.

ments are designed to assist scheme managers to meet buy back requests. The fact remains, however, that managers of illiquid schemes simply cannot act as banker to the scheme's investors.

Current buy back exemptions

7.6 For some time the ASC has recognised that a buy back obligation is inappropriate for some types of schemes and in some circumstances. It has issued exemptions from the buy back obligation including

- for agricultural and other tax based schemes
- for film investment schemes
- for certain fixed term real estate trusts and syndicates
- for listed trusts
- for interests issued in consideration for property sold into the trust
- while the office of manager is vacant and the trustee is temporarily acting as manager
- where the amount requested is less than a specified (relatively small) amount
- for trustee company common funds.

Fixing the buy back problem

Is suspending the buy back obligation a solution?

7.7 The problems caused by a buy back obligation could be alleviated by allowing operators to suspend the obligation whenever they are unable to meet it. This would effectively abolish the buy back obligation. Operators would have the benefit of seeming to guarantee customers a repurchase option without being required to ensure that the offer could be honoured in all cases. This would be misleading and would undermine investor confidence in the collective investments industry. To pre-empt possible loss, investors may seek to withdraw funds from schemes that are not in any difficulty, causing a run on those schemes. This potential for instability is contrary to the Review's policy objectives.

Proposal and submissions

7.8 The buy back obligation has been criticised by both trustees and managers.[7] DP 53 suggested that the only sustainable option is to prohibit operators of collective investment schemes from offering a buy back obligation. It proposed that the present buy back obligation should be abolished and that the law should

7. eg Perpetual Trustees Australia Limited *Submission* 15 November 1991; St George Funds Manager *Submission* 18 December 1992; MLC Investments Ltd *Submission* 17 December 1992.

prohibit scheme operators from offering investors a compulsory buy back facility.[8] The majority of submissions that commented on this issue supported the proposal.[9] However, an opposing view was also put to the Review.

> If a management company has sufficient capital to offer a buy back facility and is willing to do so then the provision of such a facility should not be banned. If investors believe that a buy back facility is an important feature of their scheme then they should be given the opportunity to invest in such a scheme.[10]

Recommendations

7.9 The Review remains of the view that the law should not impose a buy back obligation. The existing statutory obligation on scheme managers to buy back interests, combined with their right to redeem from scheme assets interests they have bought from investors, is fundamentally misguided for illiquid schemes. The effect is to impose on scheme managers an obligation they may not be able to fulfil. Its failure with unlisted property trusts caused great damage to commercial stability and investor confidence in the collective investments industry. Requiring higher levels of liquidity in illiquid schemes to enable schemes to redeem interests purchased from investors by managers is no solution. It simply forces those schemes to hold a greater proportion of their assets in cash or immediately convertible assets, with the possible loss of other investment opportunities. It also assumes that a high enough liquidity requirement can be found that will satisfy all redemption requests.The Review **recommends** that the existing statutory buy back obligation should be repealed. The voluntary undertaking of an obligation to make a buy back offer is dealt with at paragraph 7.12.

Operators holding interests in their own collective investment schemes

Issue raised for comment

7.10 DP 53 called for comment on whether scheme operators should be prohibited from, or restricted in, holding interests in their own collective investment schemes and whether any such prohibition or restriction should extend to related parties.[11] While there was some support for a prohibition on operators holding interests in their own collective investment schemes,[12] a majority of

8. Proposal 8.1.
9. Credit Union Services Corporation (Australia) Limited *Submission* 27 November 1992; ISC *Submission* 12 November 1992; Australian Film Commission *Submission* 7 January 1993; MLC Investments Limited *Submission* 17 December 1992; TCA *Submission* 17 December 1992; T Valentine *Submission* 5 November 1992; M Starr *Submission* 12 November 1992.
10. Minter Ellison Morris Fletcher *Submission* 24 November 1992. See also Macquarie Investment Management Limited *Submission* 24 November 1992. Other submissions that supported permitting a voluntary buy back obligation included ASCPA & ICAA *Submission* 15 February 1993; Arthur Robinson & Hedderwicks *Submission* 16 December 1992; County NatWest Australia Investment Management Limited *Submission* 18 December 1992; Treasury *Submission* 24 December 1992.
11. Issue 8A.
12. Credit Union Services Corporation (Australia) Limited *Submission* 27 November 1992; Hall Chadwick *Submission* 21 December 1992; FPAA *Submission* 7 December 1992.

submissions opposed the idea.[13] They argued that it is sometimes desirable for an operator to hold interests in its own scheme to provide initial seed capital and so overcome some of the difficulties involved in commencing operation.[14] It was also noted in submissions that investment by an operator can be likened to 'hurt' money: if the operator does not act in the interests of scheme investors, it is directly penalised through its ownership of scheme interests.[15] Another concern expressed was that the proposal, if implemented, would aggravate liquidity problems associated with collective investment schemes.[16] Its ability to hold interests in its scheme enables the operator to inject liquidity into the scheme by buying interests rather than by selling scheme assets.

Recommendations

7.11 ***Buying new interests.*** The Review notes the support expressed in submissions for the right of operators to own interests in the schemes they promote. It agrees with the reasons advanced in favour of permitting such holdings. The Review **recommends** that a scheme operator should be able to purchase new interests in a scheme on the same basis as other investors. Restrictions on its right to vote in respect of those interests[17] and the fiduciary obligations it will owe to investors will guard against a scheme operator using its interests to the disadvantage of other investors.

7.12 ***Buying existing interests from investors.*** The Review considers that the purchase by scheme operators of existing interests in a scheme should not be prohibited. However, selective purchasing by an operator should not be permitted. If an operator wishes to purchase existing interests in its scheme, rather than buy new interests, it should only be allowed to do so on a basis that is fair to all investors. A scheme operator may choose to make ad hoc offers, or no offers, to buy interests from other investors. Alternatively, the scheme constitution may require the operator to make a certain number of offers to investors each year or to offer continuously to purchase interests from investors. Any offer a scheme operator makes to investors to purchase interests should be subject to rules prescribed in the Corporations Law. These rules should ensure that investors who accept a buy back offer by a scheme operator are treated equally. A buy back offer should be made in the following way:

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13. Macquarie Investment Management Limited *Submission* 24 November 1992; National Mutual *Submission* 3 December 1992; Australian Film Commission *Submission* 7 January 1993; BT *Submission* 15 December 1992; Arthur Robinson & Hedderwicks *Submission* 16 December 1992; MLC Investments Limited *Submission* 17 December 1992; St George Funds Manager Limited *Submission* 18 December 1992; County NatWest Australia Investment Management Limited *Submission* 18 December 1992; TCA *Submission* 17 December 1992; M Starr *Submission* 12 November 1992; Mercantile Mutual Holdings Limited *Submission* 16 December 1992; ASCPA & ICAA *Submission* 15 February 1993; Australian Film Finance Corporation Pty Ltd *Submission* 8 December 1992; ISC *Submission* 12 November 1992.
14. M Starr *Submission* 12 November 1992; Macquarie Investment Management Limited *Submission* 24 November 1992; National Mutual *Submission* 3 December 1992; IFA *Submission* 1 December 1992.
15. National Mutual *Submission* 3 December 1992.
16. Macquarie Investment Management Limited *Submission* 24 November 1992; IFA *Submission* 1 December 1992; National Mutual *Submission* 3 December 1992.
17. See para 11.26.

- The offer should be at a price calculated in accordance with the scheme constitution.

- All investors should be given written notice of the offer within three days of the offer date.[18]

- The offer notice should disclose the amount of money that the operator intends to spend on interests in this offer. It should also stipulate a closing date for acceptances, not less than 28 days from the offer date.

- The scheme operator should lodge a copy of the buy back offer with the ASC before, or immediately upon the commencement of, the offer period. The directors of the operator should also lodge a signed statement, dated not more 21 days prior to the offer date, certifying that the operator has funds available to honour the offer.

- The notice should explain the buy back rules and procedures and state that full details of the offer (unless included in the notice) are set out on the buy back application form, or a document attached to that form. It should also state where, or how, the application form may be obtained (if not included in the notice) and that the buy back offer may be accepted only by completion of an application form. The application form or a document attached to it should also explain the buy back rules and procedures.

- Buy back offer periods should not overlap.

- If more interests are offered by investors than can be purchased by the scheme operator with the funds specified in the buy back notice, interests should be purchased from investors on a pro rata basis.

- If interests are purchased on a pro rata basis, the scheme operator should, within five business days, lodge a notice to that effect with the ASC.

Scheme operators should be prohibited from entering arrangements to avoid these provisions, either directly or indirectly. Interests acquired under a buy back offer should only be redeemable in accordance with the statutory redemption procedure.[19]

7.13 ***Disclosure of buy back arrangements.*** The Review has considered whether there should be specific requirements for scheme operators to disclose in prospectuses whether they intend to make any offers to buy back investors' interests. Whether the scheme operator is required under the scheme constitution to make buy back offers or otherwise intends to make buy back offers is material to assessing the merits of participating in a scheme. Consequently, disclosure of this information would be required under the existing law.[20] However, the Review **recommends** that the annual and half yearly reports of a collective investment

18. cf Corporations Law s 638(7).
19. Para 7.21.
20. Corporations Regulations reg 7.12.12.

scheme should provide information about recent buy back offers. They should set out the number of interests acquired by the operator and details of any use of the pro rata procedure in the period of the report. Full disclosure of this information will help to ensure that investors have realistic expectations about their ability to withdraw from a scheme by selling their interests to the operator.

Redemption

The problem

7.14 Redemption of investments requires assets of the scheme equal to the investor's share of the total scheme assets to be liquidated to pay the investor seeking to withdraw from the scheme. If the assets are easily divisible and saleable, for example listed equities or interest bearing paper, redemption is readily effected. This is not the case if the assets of the scheme are illiquid in whole or part. A property trust that owns one or two commercial properties, for example, will not be able to meet redemption requests unless the scheme's assets include sufficient cash or other liquid assets in addition to the real property. Without adequate liquid assets in the scheme the operator will have to sell an asset of much greater value than would be necessary to meet the redemption request. Even if a scheme that is invested mainly in illiquid assets holds some liquid assets, as soon as more redemption requests are received than can be met from those liquid assets, the scheme will have difficulty meeting the requests.

Redemption at call in fully liquid schemes

7.15 ***Proposal.*** Many submissions on IP 10 recognised that redemption from scheme assets is only viable if enough assets are liquid.

> Our view is that schemes marketed to the retail sector should be of a liquid nature, and therefore the underlying assets should also be liquid. Once this view is accepted, it follows that since the assets are liquid no buy back requirement is necessary as the nature of the assets themselves will satisfy redemption.[21]

The Review accepted this line of argument and proposed in DP 53 that only collective investment schemes in which a prescribed percentage (for example, 80%) of the assets are able to be liquidated on a recognised exchange should be allowed to offer an at call (that is, up to seven days) redemption facility.[22]

7.16 ***Submissions.*** The vast majority of submissions supported the principle underlying the proposed redemption restriction, namely, that investments should only be redeemable at call if the assets themselves are liquid.[23] There was some

21. MLC Investments Limited *Submission* 22 November 1991.
22. Proposal 8.2.
23. Credit Union Services Corporation (Australia) Limited *Submission* 27 November 1992; Macquarie Investment Management Limited *Submission* 24 November 1992; IFA *Submission* 1 December 1992; Arthur Robinson & Hedderwicks *Submission* 16 December 1992; County NatWest Australia Investment Management Limited *Submission* 18 December 1992. Those opposed to the proposal included BT *Submission* 15 December 1992; Mercantile Mutual Holdings Limited *Submission* 16 December 1992; ASCPA & ICAA *Submission* 15 February 1993.

concern, however, that the requirement for assets to be able to be liquidated on a 'recognised exchange' was too narrow. It was suggested that this formulation did not encompass certain highly liquid assets such as government bonds or bank bills. It was also argued that this requirement would have to be amended for interfund investment. If a scheme invests in interests of another scheme, the investment may not meet DP 53's proposed criteria for liquidity, even though the assets of the other scheme may be liquid.

7.17 ***Recommendation.*** Investors in fully liquid schemes, such as 'cash management trusts', should not be denied the opportunity to redeem their investments at call. 'Feeder funds', which only hold interests in other schemes, may be equally capable of offering a redemption at call facility where the assets of the schemes in which they are invested are fully liquid. The Review therefore considers that schemes that invest in specifically transferable securities like bank bills and shares, including 'feeder funds' should be able to offer at call redemptions. However, the Review **recommends** that any redemption offer made must be made to all investors on the same terms. There is no need for any other legislative restrictions on redemptions by these schemes. Details of redemption offers would have to be disclosed in any prospectus.

Redemption in wholly or partly illiquid schemes

7.18 ***Proposal.*** The fundamental problem in providing a redemption facility for less than fully liquid schemes (illiquid schemes) is that it is not always possible to liquidate part of a scheme's assets to meet redemption requests, certainly not without disadvantaging continuing investors or even possibly jeopardising the future of the scheme. While the liquidity requirement imposed on property trusts may improve the ability of investors to redeem their interests, it will not guarantee it. DP 53 proposed that, instead of requiring longer redemption periods for illiquid schemes, investments in these schemes should be for fixed periods.[24] The Review considered that imposing a fixed term on investors would enable scheme operators to manage their cash flow better because they would know in advance the maximum number of investors who could seek to redeem their interests on any particular day. Under the current system, the operator of a scheme does not know this. All investors could ask simultaneously for their interests to be redeemed.

7.19 ***Submissions.*** The Review received considerable support for this proposal.[25] Some submissions, however, while supporting the proposal in principle, suggested that investors should be required to notify the operator before the fixed period expired if they intended to withdraw their investment on the date it fell due.[26]

> We would suggest that in addition to what has been proposed, that a standard redemption notice period be required. As the shortest fixed term period the Review is envisaging is six months, unless [scheme operators] have a way of anticipating the

24. Proposal 8.3.
25. eg Credit Union Services Corporation (Australia) Limited *Submission* 27 November 1992; National Mutual *Submission* 3 December 1992; TCA *Submission* 17 December 1992; FPAA *Submission* 7 December 1992.
26. Macquarie Investment Management Limited *Submission* 24 November 1992; St George Funds Manager Limited *Submission* 18 December 1992.

> redemption outflow requirement on the actual redemption date, they are in no better position than they were at the beginning of the six month period to ensure that sufficient assets have been liquidated to meet those redemption requests.[27]

Some submissions suggested as an alternative to fixed term investments that schemes should have appropriately long redemption notice periods.

7.20 ***The particular problem of illiquid schemes.*** Investors in illiquid schemes may believe that they are acquiring a readily convertible investment. This belief is false. There can be no guarantee that their interests will always be redeemable, for value, from scheme assets. Any redemption regime must balance the interests of applicants for redemption, both amongst themselves and against the interests of remaining investors. The current regime, by not matching redemption requests to the cash available in the scheme, fails to do this. To require a scheme to sell non-liquid assets, or borrow against non-liquid assets, to honour redemption requests in excess of the available liquidity may adversely affect the scheme's asset base and the interests of its continuing investors. The DP 53 proposal to impose fixed investment terms would not solve this problem. It assumes that assets can be liquidated in time to meet anticipated redemption requests. Market forces may mean this is not possible. Also, investors may prefer to submit a notice of redemption at a time of their choosing rather than on a fixed date. A better approach is to match redemptions directly to available liquidity through a pro rata mechanism that ensures equality of treatment where redemption requests exceed available liquidity.

7.21 ***Recommendation.*** The Review **recommends** that the operator of a scheme that is not entirely liquid should not be allowed to make redemption offers other than in accordance with rules prescribed in the Corporations Law. Many of the rules the Review recommends should be prescribed are the same as those it recommends for the buy back of existing interests by scheme operators.[28] They are designed to ensure that investors are treated equally. Redemption offers should be made as follows.

- Any offer should be for a minimum of 28 days.[29]
- A scheme operator should lodge a notice of a redemption offer with the ASC.[30]
- Offer periods should not overlap.

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27. St George Funds Manager Limited *Submission* 18 December 1992.
28. See para 7.12.
29. Without a significant offer period, the pro rata procedures could be circumvented. A scheme operator could, for instance, run a redemption offer for only a nominal period, thereby permitting itself and any other applicants to take all or a disproportionate amount of limited liquid funds. The 28 day period would permit scheme operators to make calendar month offers. A high liquidity scheme could run successive monthly offer periods. It would suffer no commercial detriment vis-a-vis fully liquid schemes, other than a delayed settlement.
30. This notice would be an independent verification that an offer has been made.

- The offer should be open to all eligible investors on the same terms.[31]
- Investors who have requested redemption of their interests in the period since the last redemption offer should be sent details of the redemption offer and an application form.
- A scheme operator should not have to provide a written offer to other investors but should provide a copy of the offer and an application form, at no cost, to investors upon their request.[32]
- Redemption requests should have to be made by completing an application form which should explain the redemption rules, in particular, that if more redemption requests are made than can be funded from the liquid assets of the scheme at the end of the offer period the requests will be met on a pro rata basis.
- The scheme operator should not stipulate the funds available for each redemption offer. Instead, the scheme operator should meet redemption requests from the liquid assets of the scheme, being cash on hand and other assets immediately convertible into cash, on the day following the close of the offer period.[33]
- Redemption requests should be paid out at a price calculated in accordance with the scheme's constitution.
- If the liquid assets of the scheme are insufficient to meet all redemption requests lodged in the offer period, the requests should be met on a pro rata basis and the applicants for redemption advised accordingly.
- An investor who wants to redeem any interests that could not be redeemed in a particular redemption period should have to complete another redemption application form during a later redemption period. Their initial request should not be carried forward automatically.[34]
- Each time a scheme is obliged to meet redemption requests on a pro rata basis it should, within five business days of the end of the redemption period, notify the ASC of this fact.

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31. The scheme constitution may require that interests be issued for a minimum period before they are eligible for redemption.
32. To require written offers to all investors for each redemption period would involve high administrative costs. Also the initiative to request redemption would come from investors.
33. This differs from buy backs where the available funds of the scheme operator must be identified in the buy back offer. The later date for redemption better ensures that redemptions are met only from liquid scheme assets then available.
34. Investors who have requested redemption of their remaining interests will, under the Review's earlier recommendation in this paragraph, automatically receive details of the next redemption offer and an application form.

As with information about buy back offers, the Review considers that information about the procedures by which investors may apply for redemption of their interests, whether there is any obligation on the operator to make redemption offers and, if so, the nature of the obligation,[35] would be material to assessing the merits of participating in a scheme. Disclosure of this information would, therefore, be required under the existing law.[36] The Review **recommends**, however, that annual and half yearly reports should include information about recent redemption offers and whether the pro rata mechanism was used. All application forms for new interests should also explain the redemption rules or draw attention to the redemption section of the prospectus. This will ensure that investors are adequately informed of the redemption process.

7.22 ***No statutory obligation to redeem.*** The Review does not support any statutory obligation on scheme operators to offer redemptions. To do so may lead investors to believe that they have some right of redemption for value, regardless of the nature of the assets held by the scheme. Any failure to honour redemption requests under a compulsory redemption system may give the false impression that a scheme is failing and cause an unnecessary acceleration of redemption requests and the loss of new investments. The scheme operator is best placed to determine when to make redemption offers. The Review has considered whether the lack of a statutory redemption obligation may result in scheme operators locking in investors by declining to make redemption offers. There are various market forces which will greatly reduce this possibility. A scheme constitution could give some certainty to investors by requiring the operator to make redemption offers at stipulated times or with a stipulated frequency.[37] Persistent failure to offer redemptions would discourage new investors. In addition, investors may have recourse against the scheme operator, including calling a meeting of investors to replace the operator, or seeking an oppression or other judicial remedy.[38] The Review is satisfied that there are effective disincentives against scheme operators attempting to lock investors into schemes indefinitely.

A secondary market for interests in collective investment schemes

7.23 Restricting the ability to withdraw funds from illiquid schemes may reduce their attractiveness. One means of providing investors with ready access to their investment, while recognising the limitations facing an operator attempting to provide access, would be to establish a secondary market for all interests in illiquid collective investment schemes. IP 10 asked whether a secondary market for such

35. These obligations would refer to the frequency of making offers. A scheme constitution may not provide for a redemption process which differs from the statutory procedures recommended in this paragraph.
36. Corporations Regulations reg 7.12.12.
37. A scheme constitution could not provide for a redemption process that departed from the statutory procedures for making offers and pro rata distributions as described in para 7.21. A provision in a scheme constitution requiring the operator to make periodic redemption offers would not provide investors with a guarantee that they would be able to redeem their interests.
38. See further ch 11.

schemes should be established.[39] The question received both positive and negative responses.[40] DP 53 called for comment on whether the introduction of a secondary market for trading investments in all illiquid collective investment schemes should be considered.[41] Again there was a mixed response. Some respondents supported the creation of a secondary market.[42] Others opposed it, principally on the ground that secondary markets can restrict capital raising as investors go to the secondary market, rather than the primary market, to invest.[43] Other submissions commented on the possible difficulty of sustaining a viable market in interests in collective investment schemes.

> [T]he existence of a marketplace for the trading of securities of collective investment schemes will not, of itself, mean that the market will be attractive to investors. A market is attractive to investors if it operates efficiently, at low cost and is liquid . . . Unless a market has . . . liquidity present to a significant degree, it is unlikely that the market would be successful (ie attractive to investors both domestic and foreign).[44]

Whether a secondary market is established for interests in all illiquid collective investment schemes is not a question for government. It is a question for the market. In principle, such a secondary market would be a desirable development, as it would widen the range of exit mechanisms available to investors. The Review supports in principle the establishment of such a market for interests in all illiquid collective investment schemes but acknowledges the concerns expressed about the viability of such a market. It also acknowledges that because many larger illiquid schemes have already listed on the ASX there may not be enough schemes to provide depth to a secondary market for interests in collective investment schemes.

39. Issue 48.
40. Those in favour included Perpetual Trustees Australia Limited *Submission* 15 November 1991; Australian Property Alliance *Submission* 11 October 1991. Those against included: MLC Investments Limited *Submission* 22 November 1991; Purvis, van Eyk & Company Limited *Submission* 12 November 1991.
41. Issue 8B. It was envisaged that such a market would operate in a similar fashion to the bank bill market, which allows holders of nominally fixed term investments to sell to a third party their right to be repaid on maturity of the bank bill.
42. Credit Union Services Corporation (Australia) Limited *Submission* 27 November 1992; TCA *Submission* 17 December 1992.
43. Macquarie Investment Management Limited *Submission* 24 November 1992.
44. ASX *Submission* 22 December 1992.