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Disclosure alone won't protect investors from financial risks

Disclosure alone will not necessarily protect investors from financial risks Governance Institute of Australia has told the *Financial System Inquiry*, claiming allocating financial risk at the consumer level is not identical to allocating financial risk at the investor level.

"Disclosure is a foundation stone of our financial system, with some of the responsibility shifted to the investor or consumer. But consumers of financial products are not necessarily taking a risk for reward in the same way investors are,' Governance Institute's chief executive Mr Tim Sheehy explained. "So we have to ask ourselves if disclosure is the best means available to offer protection in all instances."

Governance Institute also recommends that the inquiry consider class actions. Currently the majority of litigation funders are not licensed, nor are the law firms who act as promoters, yet funded class actions are an accepted mechanism for those seeking recompense.

"This is not just about disclosure, but of an unregulated industry where the interests of some can override the interests of many," Mr Sheehy said.

"The reality is there are conflicts of interest in funded litigation. A promoter and/or law firm seeks out and creates an action to further its business, not necessarily the interests of the plaintiffs. Without adequate conflicts management arrangements, litigation funders whose interests conflict with those of their clients are more likely to take advantage of those clients."

"While a funder might promise to meet all adverse cost orders made in favour of the defendant, if the funder lacks the financial resources to meet those costs, the representative member of the class may have to. There is a clear incentive for class action promoters to instigate actions regardless of whether they believe the prospects of success are unlikely and regardless of whether they have sufficient funds to meet costs should the action fail," Mr Sheehy added.

The Governance Institute is also urging the inquiry to create an environment where directors and officers can make forwarding-looking statements to investors when appropriate as this would enable directors to speak to long-term objectives, prospects and risks.

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About Governance Institute of Australia

The Governance Institute of Australia is the only independent professional association with a sole focus on the practice of governance. We provide the best education and

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support for practising chartered secretaries, governance advisers and risk managers to drive responsible performance in their organisations.

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