

Response from Michael Harmer

Dear Sirs

I act as marketing consultant to NBAN, but these are entirely my own independent comments, made without reference to that organisation.

I can understand the need to protect the interests of SMEs and investors but agree with the general view that the current regulations are unsatisfactory and a barrier to those who want to invest as well as to those companies that need investment.

Defining HNW is relatively straightforward, but defines a situation that could change for the worse the very next day. No third party relishes the prospect of providing a certificate that could become instantly meaningless and possibly grounds for litigation.

Defining Sophisticated is well nigh impossible, as is trying to set criteria for an indeterminate quality. Sophistication is all in the mind and may prove to be unfounded or embarrassingly short-lived as well as being a description with which many would not feel comfortable. It poses odd questions. How long does it take to achieve this state, is there an intelligence test, or a professional test which can be relied on in every situation? Is sophistication the result of learning by mistakes or getting it right every time? - maybe it was more down to luck than judgment. The whole concept is uncertain and less than reliable. Experienced is a better word as it describes a past situation and doesn't imply future behaviour. I don't mind being described as experienced but I would be embarrassed to find myself described as sophisticated, even if I were.

There is no point in being High Net Worth if you can't also be described as Sophisticated, as someone who is merely HNW might suffer serious losses because of lack of sophistication, which invalidates the certification exercise.

Investments for small businesses are often small but highly important, so there's no reason to set such a high ceiling for HNW investors, or too rigorous a test for Sophisticates, assuming the test were valid. Anyway, so far there's nothing to prevent anyone from investing their own money in any scheme or business they fancy, however ill-advised, so is it worth plugging one gap in a way which discourages investors when the rest of the edifice is riddled with holes?

Many accountants have refused to issue certificates, and no-one knows what a certificate is supposed to say, how thoroughly the applicant should be investigated, who it indemnifies, or what legal protection is necessary for those who provide it.

If there has to be some form of certification then I would be in favour of Option 3 - self certification for all. In this case there might be a single set of guidelines indicating the risks, with a formula which relates size of investment to size of net worth, and an indication of the skills the investor needs to protect his assets. The certificate should be renewed annually.

Although it's important to encourage investment in SMEs it might be possible to charge a modest fee, with part going to the Exchequer and the remainder in admin costs to whichever organisation is responsible for keeping central records.

Apologies for hopping around various aspects of the subject. The current situation is not working, but the most important objective should be to devise a simple and workable system, without discouraging the investors which SMEs so badly need.

I hope this helps. The right outcome will certainly help me and the business angel market.

Yours faithfully

Michael Harmer