

28 April 2025

Property Funds Association

Submission to ASIC Discussion
Paper – *Australia's evolving
capital markets: A discussion
paper on the dynamics between
public and private markets*

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1. About the PFA

The Property Fund Association ('PFA') established in 1998 is the peak body representing the Australian unlisted property funds sector.

The property funds sector needs an industry association to promote the industry, build networks, educate and advocate – PFA aims to achieve this while providing the unlisted property funds industry with a voice.

Unlisted commercial real estate investment plays a big role in the Australian economy, is highly influential over the places we live, work, and play, and fosters innovation and sustainability in property. Over the medium to long-term, unlisted property funds are proven as a positive contributor to retail and institutional investment portfolios.

PFA is committed to the improvement of relevant industry legislation and governance to facilitate industry growth and best-practice outcomes. To achieve these aims, we provide industry leading sector research and education to our members, and represent their interests to the Australian Securities and Investment Commission (ASIC), Treasury and other government and regulatory bodies.

2. Objectives

This submission relates to the ASIC's discussion paper titled '*Australia's evolving capital markets: A discussion paper on the dynamics between public and private markets*' released in February 2025 ('**Discussion Paper**').

The objectives of this submission are to:

- a) address the discussion questions posed by ASIC in the Discussion Paper which relate to or affect the members of the PFA; and
- b) address the relevant commentary and opinions provided by ASIC in relation to those questions and the underlying issues to which they relate.

3. Overview

The Discussion Paper sets out a total of 15 discussion questions, 10 of which are specifically addressed in this submission. The PFA has focused on issues raised in the Discussion Paper as they relate to unlisted property funds, reflecting the primary interests of the PFA's members. As the PFA represents unlisted property fund managers, the focus of this submission is on

funds, rather than companies. To this end, the PFA has adopted the delineation between public and private markets as set out in section 1 of the Discussion Paper, such that:

- a) public markets, comprise listed and publicly traded funds; and
- b) private markets, comprise unlisted (wholesale and retail) funds.

Within the private markets, there is a significant difference between wholesale and retail funds. As a result, when answering the questions posed by the Discussion Paper, this submission also draws a further distinction between:

- a) retail funds, being unlisted, registered managed investment schemes; and
- b) wholesale funds, being unlisted, unregistered managed investment schemes.

3.1 Regulation of unlisted retail funds and listed funds

The Discussion Paper makes clear that one of ASIC's primary concerns is the sufficiency of the regulation of private markets, particularly in light of the global trends indicating a shift in capital away from public markets.

The PFA notes that an analysis based on the above distinction between public and private markets fails to take into account the considerable regulatory overlap between unlisted retail funds and listed funds, each of which are subject to the extensive regulatory regime which exists in respect of registered schemes. As a consequence of ASIC's framing of the issue, the Discussion Paper does not grapple with the direct and indirect consequences of:

- a) the introduction of additional regulations which apply to retail funds; and
- b) ASIC's continuing scrutiny of registered schemes,

on the attractiveness of retail funds (both listed and unlisted) to investors and issuers.

In particular, the PFA notes ASIC's persistent focus on enforcing and bolstering the design and distribution obligations under Part 7.8A of the *Corporations Act 2001* (Cth) (**DDO regime**). The DDO regime imposes a significant compliance burden on issuers, increasing the red-tape, costs and ongoing administration required to operate a registered scheme. Since the introduction of the DDO regime in October 2021, ASIC has consistently acted to increase this burden, by:

- a) making enforcement action in respect of breaches of the DDO regime a specific priority in 2023 and 2024;¹
- b) undertaking ongoing surveillance of registered scheme operators in relation to their DDO practices; and
- c) releasing consecutive reports² on DDO practices and revised regulatory guidance³, recommending '*better practices*' and '*areas to improve*' which (through ASIC's regulatory powers) seek to impose broader obligations than those contemplated by the legislation.

The PFA considers that while the increased regulatory burden created by the DDO regime has itself lead to a shift toward wholesale funds, ASIC's subsequent actions have significantly exacerbated that shift and have contributed to an environment where retail property funds in particular have become an increasingly unattractive option for fund operators and investors. In the PFA's view, this has materially contributed toward a reduction in the number of available opportunities for investment in listed and unlisted funds.

3.2 Sufficiency of existing regulation – general comments

The PFA is of the view that the existing regulatory framework with respect to unlisted property funds is fair and reasonable. Unlisted property funds have endured downturns resulting from significant macro-economic events over the past two decades, including the GFC and rapidly rising interest rates. In particular, the COVID-19 pandemic had a considerable impact on Australian real property – well beyond that for most other asset classes. Under this extreme pressure, there has been no indication that the existing regulations have been insufficient or have not worked in a manner consistent with their legislative intent. The PFA is of the view that if any true deficiencies existed in the regulation of unlisted property funds, they would have been revealed by now.

¹ See [ASIC enforcement proprieties](#) 2023 and 2024.

² Report 754: Target market determinations for small amount credit contracts (13 December 2022); Report 762 Design and distribution obligations: Investment products (3 May 2023); Report 770 Design and distribution obligations: Retail OTC derivatives (6 September 2023); and Report 795 Design and distribution obligations: Compliance with the reasonable steps obligation (10 September 2024).

³ Regulatory Guide 274: Product design and distribution obligations was updated in September 2024.

3.3 Sufficiency of existing regulation – wholesale funds

Unlike retail funds, wholesale funds are closed to the general public and typically have a relatively small number of investors, compared to retail funds. Those investors are made up sophisticated investors (such as institutions, superannuation funds, family offices and other retail funds) and advised high net wealth investors, who often conduct thorough due diligence before committing capital. These investors frequently negotiate detailed information rights in the fund documentation and receive regular updates on fund performance and risk metrics. Overlaying an ASIC-prescribed disclosure regime would increase compliance costs and could force managers into a one-size-fits-all reporting format that is less useful than a more malleable regime that allows for bespoke reporting arrangements tailored to a sophisticated investor's needs.

Wholesale fund managers (as Australian Financial Services Licensees) are already subject to:

- a) **(Statutory duties)** for example, to provide services efficiently, honestly and fairly, to maintain competence, and to manage conflicts of interest;⁴ noting that these obligations apply regardless of whether clients are wholesale or retail.
- b) **(Fiduciary duties)** as wholesale funds as almost always structured as unit trusts, wholesale fund managers are subject to the fiduciary duties as the trustee of the wholesale funds they operate. Those fiduciary obligations (such as the duty to act in the best interests of beneficiaries) are considerable and already operate to protect investors in wholesale funds.

The PFA considers that ASIC has sufficient tools to monitor and enforce compliance with the existing obligations (eg., surveillance, enforcement of licence conditions) to address any misconduct or governance weaknesses in wholesale funds. From the PFA's perspective, the combination of existing legal obligations, wholesale investor expectations and market practice already requires that wholesale fund managers maintain high standards in these areas.

In considering any further regulation of wholesale funds, the recent report issued by the Parliamentary Joint Committee on Corporations and Financial Services ('**PJC**'), in relation to the wholesale investor and wholesale client tests,⁵ should guide and inform ASIC's approach.

⁴ Section 912A *Corporations Act 2001* (Cth).

⁵ PJC Report - February 2025: *Wholesale investor and wholesale client tests*.

In that report, the PJC found that, contrary to ASIC's submissions,⁶ there is a lack of evidence showing that the current wholesale client test has '*led to any significant or systematic harm to particular classes of investors, or to the Australian investment industry more generally*'.⁷

This finding is underpinned by an acknowledgement by the PJC that:⁸

'the wholesale investor and client tests play an important policy role in Australia's investment markets. The tests ensure that only people with the appropriate level of resources, knowledge and skill are able to invest in wholesale markets, which may involve more complex and riskier investments and are subject to fewer consumer protections; and that participants in retail markets are provided with appropriate consumer protections.'

The PJC's findings are unequivocal and direct in stating that while parliament should create specific protections in respect of investment opportunities which are made available to the general public (ie., retail investors) the wholesale client test serves as a legislative threshold at which parliament has determined that an investor does not require those protections (ie., wholesale investors).

To that end, the PFA wishes to emphasise that wholesale funds play an integral and irreplaceable part in Australia's economy, and that many of their key advantages (eg., speed to market, novel structures) are only possible because they are not regulated in the same way (and to the same extent) as retail funds.

While the PFA acknowledges that part of ASIC's role is to be proactive in its regulation of capital markets, the PFA wishes to stress that the imposition of further regulation on an already well functioning system can have drastic economic consequences. Any additional regulation should be:

- a) only imposed to manage a real, identifiable and material risk which is not adequately dealt with under the current regulatory system; and
- b) weighed carefully against not only the deleterious effect those regulations may have on the ability for fund managers to raise and deploy capital, but also the number and quality of investment opportunities which are available to wholesale and retail clients.

⁶ At [2.38] and [2.43].

⁷ At [2.209]

⁸ At [2.203].

The PFA echoes the statements made by the PJC in its 2025 report, that:

- a) given the significant negative impacts that could arise from regulatory changes, a high level of caution is warranted;⁹ and
- b) significant policy recommendations must be underpinned by appropriate research, including meaningful consultation with industry stakeholders.¹⁰

3.4 International regulatory changes focused on public market accessibility

The PFA notes ASIC's comment that regulatory reporting obligations for private funds in Australia '*lags behind global regulatory best practices*', citing practices by regulators in the United States, Europe, the United Kingdom and New Zealand.

The PFA wishes to emphasise that, on the whole, the examples cited by ASIC of key global regulatory responses to changing public and private markets¹¹ reflect a strong theme of improving access to capital markets by deregulation, which appears inconsistent with the content and questions posed in the Discussion Paper. For example:

- a) the SEC's Investment Advisory Committee is considering ways in which to improve access by retail investors to private markets (not regulate them further);
- b) the FCA (UK), the Council of the EU, the MBIE (NZ), the MAS (Singapore) and the Securities and Futures Commission of Hong Kong have each introduced regulations aimed at decreasing the regulatory burden of public listings in their jurisdictions;
- c) the Ontario Securities Commission is seeking feedback on a proposal to opportunity to improve retail investor access to long-term illiquid assets;
- d) the European Securities and Markets Authority has made recommendations highlighting the importance of supporting the growth of funding options beyond public markets, including crowdfunding, venture capital and private equity; and

⁹ At [2.217].

¹⁰ At [2.223].

¹¹ Appendix 2 of the Discussion Paper.

- e) new regulations for European Long-Term Investment Funds (ELTIFs) were introduced to eliminate previously high investment thresholds and liquidity restrictions, making private assets more accessible.

3.5 Differences in the Australian private market

The PFA notes that Australia's private markets differ significantly from their international counterparts in ways that make direct regulatory comparisons potentially misleading:

- a) **(Scale and maturity)** as noted in the Discussion Paper¹², Australian private capital markets remain relatively small compared to Australian public markets and private markets in other jurisdictions.
- b) **(Robust existing framework)** Australian private fund participants already operate within a comprehensive regulatory framework which is more comprehensive than those in many foreign jurisdictions. AFS licensees in the private market space are subject to significant conduct obligations, including requirements to act efficiently, honestly and fairly, have adequate risk management systems, and manage conflicts of interest. Additionally, trustees are required to comply with equitable duties and the terms of the underlying fund constitutions.
- c) **(Limited systemic risk)** as acknowledged in the Discussion Paper, *'the size of our private markets is less significant than in other jurisdictions, with public markets and banks dominating much of the funding provided domestically. At these levels, an increase in failures of private capital funds in Australia is unlikely to drive a crisis across the Australian economy.'*¹³

3.6 Australian private markets are functioning efficiently

The private markets in Australia are efficiently allocating capital to businesses and projects that might otherwise struggle to access funding through traditional channels. For example:

- a) **(Capital deployment for key projects)** private markets have been instrumental in funding critical infrastructure, energy transition projects, and other long-term initiatives that require 'patient capital' over extended periods.

¹² Section 2.2.1.

¹³ Section 3.1.

- b) **(Superannuation)** private markets provide essential diversification benefits for superannuation portfolios.

4. Response to Question 2

Question 2: Do you have any additional insights into the attraction of private markets as an issuer or an investor?

In answering this question, the PFA has had regard not only to the distinction between public and private funds, but also the distinction between retail and wholesale funds. This is useful in illustrating that many of the key advantages of private funds over public funds (and in turn, wholesale funds over retail funds) are a function of the level of regulation applied to those investment classes.

However, one key ‘line in the sand’ which can be drawn between private and public funds is the effect of the role public funds play as a liquid investment class, and the countervailing drawbacks which arise as a consequence of public funds having to maintain that liquidity.

4.1 Liquidity of public funds

Investors in public funds generally have an expectation that their investment will be highly-liquid. Public funds are listed on the ASX and are therefore regularly priced and easily traded. As a consequence, public funds are subject to market forces and can be highly volatile.

In the private markets, long-term patient capital can invest in assets with long-term stable returns. Managers of those private assets can make decisions having regard to stable, long-term performance of the assets. This is significantly more difficult for boards of ASX-listed funds who must have regard to short-term price movements and investor pressures to change strategy based on short-term factors.

In practice, this means that private funds which are relatively illiquid have the following advantages:

- a) **(Illiquidity premium)** in return for the illiquidity, investors receive less volatility and are generally provided with higher returns compared to comparable publicly traded securities. Investors with long-term liabilities (like superannuation funds, with decades-long member horizons) are well positioned to benefit from these premiums.
- b) **(Long-term outlook)** private funds with committed capital that is ‘locked-away’ for a set investment term are not prone to the volatility of public markets. These funds enable

projects to be undertaken with a long-term mindset by investors who understand the benefits of patient capital.

4.2 Key advantages of private funds for issuers

- a) **(Lower costs)** as private funds are less regulated than public funds, private funds have lower overall initial and ongoing compliance costs. For this same reason, wholesale funds generally have substantially lower initial and ongoing compliance costs than retail funds.
- b) **(Time to market)** as private funds are less regulated than public funds, there are less barriers and hurdles to establishing and launching a private fund offer. This means that issuers are able to create products that capitalise on opportunities which are unavailable to their slower-moving public market counterparts.
- c) **(Smaller investor base)** private funds generally have much smaller investor bases, which makes administration of the fund more simple. Investor bases for wholesale funds are typically much smaller than those for retail funds.
- d) **(Liquidity)** unlisted funds are often generally close-ended, with capital committed for a pre-determined investment period. This allows for investment in long-term projects without issuers having to manage liquidity of the underlying securities in the fund.

4.3 Key advantages of private funds for investors

- a) **(Flexibility)** investors (particularly large institutions) often prefer private markets as there is more scope for negotiation of side agreements, where by investors with sufficient bargaining power can seek to bespoke side-arrangement which address their specific requirements.
- b) **(Innovation)** private markets provide a greater scope for innovative products, because:
 - i. public markets are generally reserved for investment in more traditional funds which are understood by the market and will attract a large volume of retail investors;
 - ii. public markets (because of their significant barriers to entry) are generally reserved for large fund managers, which are less likely to innovate than smaller, more agile fund managers; and
 - iii. public offers must be made within the narrow scope of the applicable regulations.

- c) **(Lower fees)** issuers generally charge lower fees to investors of private funds (and the lowest fees for wholesale funds), resulting in higher net returns on investor capital.

5. Response to Question 4

Question 4: What developments in public or private markets require regulatory focus in Australia in the future?

The PFA disagrees with the view that greater regulation of private markets in Australia is required.

For all of the reasons described above, Australia has a flexible regime that appropriately delineates between the sophistication of retail and wholesale investors in unlisted funds. If ASIC considers that regulatory changes are required to address the shift in capital from public to private markets, the PFA considers that, in line with the actions being undertaken by regulators in foreign jurisdictions,¹⁴ ASIC should focus on the deregulation of public markets rather than further regulation of private markets.

6. Response to Question 8

Question 8: Are Australian regulatory settings and oversight fit for purpose to support efficient capital raising and confidence in private markets? If not, what could be improved?

The PFA believes that existing regulatory framework and oversight are fit for purpose to support efficient capital raising and confidence in private markets. In particular, the existing disclosure regime is adequate and operates efficiently. The PFA has outlined its position on this point in detail in section 3 above.

In the Discussion Paper, ASIC states that greater consistency may be required in respect of the disclosure provided by issuers across private markets. In response, the PFA notes that:

- a) in respect of unlisted property funds, measures are already in place in respect of the requirements for disclosure to retail investors in Regulatory Guide 46; and
- b) in respect of wholesale funds, per the PJC's comments in its 2025 report into the wholesale client test:

¹⁴ See section 3.5 of this Submission.

- i. wholesale funds are by definition a less regulated investment vehicle which are only open to persons that satisfy a legislative threshold; and
- ii. the PJC has determined that the relevant legislative threshold is adequate.

7. Response to Question 9

Question 9: Have we identified the key risks for investors from private markets? Which issues and risks should ASIC focus on as a priority? Please explain your views.

The PFA does not consider that the risks identified by ASIC in Section 3.2 of the Discussion Paper are legitimate and material risks for investors in unlisted property funds. For the reasons set out below, these risks are either not applicable to unlisted property funds or are purely theoretical risks which are not supported by any observable evidence.

7.1 Fees and Expenses

The Discussion Paper contends that ‘since fees are tied to performance, there are incentives for fund managers to provide misleading information about fund performance’.¹⁵

The PFA rejects this contention entirely. ASIC does not point to any evidence of fund managers providing misleading information about fund performance – this is, to our understanding, a purely hypothetical concern. It could equally be said that because director bonuses are tied to company performance, there are incentives for directors of public companies to mislead the market about a company’s performance.

The risk of fraud is always present in financial markets. Likewise, the rewarding of financial performance is a feature inherent to all financial markets. These concerns are not specific to private markets and it is not accurate to suggest that they are flaws specific to the funds management model.

7.2 Valuation Transparency and Quality Risks

The Discussion Paper notes, in the context of valuation transparency and quality risks, that:

¹⁵ Section 2.3.1.

- a) 'operators of private capital funds also sometimes charge fees based on unrealised valuations, particularly in infrastructure and property'; and
- b) 'robust valuation practices are important to ensure fair treatment of both private equity investors and private credit investors.'

The PFA notes that the valuation of unrealised assets is not something particular to wholesale funds, but is necessary for the proper operation of many private markets. Illiquid assets held by public companies, private companies, retail funds and wholesale funds are all ascribed a book value which is supported by a periodic valuation. The fact that an investor's investment in those vehicles is partially underpinned by those valuations is inherent to the way in which those markets operate. As such, the PFA does not agree that the fact that operators of private funds charge fees based on unrealised valuations is itself a matter of concern.

The PFA agrees that robust valuation practices for illiquid assets are important to the operation of private funds, and notes that regulations already exist which apply to retail funds and prescribe valuations practices for certain asset classes (for example, the valuation policy requirement applying to unlisted property funds in Benchmark 4 of RG 46).

While the PFA agrees with ASIC's statement that there are no specific regulations regarding the valuation of assets by wholesale property funds:

- a) standard market practice is for valuations to be undertaken on a regular, periodic basis by professional valuers;
- b) an issuer must comply with the disclosure it makes in a disclosure document in relation to the valuation process for assets and any valuation policies which will be applied (or else may be liable for misleading or deceptive conduct);¹⁶ and
- c) an investor is able to make their own decision as to whether to invest in a fund based on the adequacy of disclosure provided by an issuer, including by making an assessment of:
 - i. the valuation procedures and policies in respect of the fund; and

¹⁶ Under section 12DA of the *ASIC Act 2001* (Cth), which provides that a person must not, in trade or commerce, engage in conduct in relation to financial services that is misleading or deceptive or is likely to mislead or deceive.

- ii. the adequacy of disclosure that has been made in respect of those valuation procedures and policies.

7.3 Performance Information Risks

ASIC has raised issues with the use of internal rate of return ('IRR') as an appropriate measure of performance. The PFA considers that IRR is a crucial metric for measuring and comparing the performance of public and private funds. IRR is well-known and understood by investors and the market generally, and provides for a universal comparator between investment options.

In the opinion of the PFA, there are no better alternatives. ASIC noted that public market equivalent ('PME') addresses some of the issues with IRR. The PFA considers that there are fundamental flaws with PME, including that:

- a) As ASIC correctly noted, public market equivalent ('PME') requires an appropriate public market index to use as a benchmark. In the PFA's view, no appropriate universal PME benchmark has been identified.
- b) Selecting different PME benchmarks across asset classes is not practicable and carries significant risk, as appropriate benchmarks do not exist for every asset class, and each benchmark must be properly reflective of the relevant class. Selection of an inappropriate benchmark could have significant effects on a particular asset class.
- c) PME is an inherently more complicated calculation than IRR and is not well understood by investors. This could have the effect of reducing transparency.
- d) The performance of public and private markets are related but independent. The underperformance of public markets could (under a PME benchmark) result in private funds significantly exceeding benchmarks in circumstances where actual returns to investors are below expectations (or vice-versa).

7.4 Leverage Risk

ASIC has noted there are risks associated with private funds using leverage in connection with their investments. Leverage is an important and generally expected part of investing in property. In the experience of the PFA, the disclosure documents for private property funds generally prescribe a target and maximum loan-to-value ratio for the fund. In this way, investors are able to make their own informed assessment of the risks associated with that level of leverage.

Additionally, it is standard market practice for lenders to require that any mortgage facility provided to a property fund includes a covenant to obtain periodic valuations from qualified valuers.

As such, the PFA does not consider that there is any specific risk with respect to the use of leverage by unlisted property funds.

7.5 Other Risks Associated with Conflicts of Interest and Information Asymmetries

Conflicts of interest and preferential treatment of investors is something that is already dealt with within the existing regulatory framework which is overlayed by the trustee's equitable duties to act in the best interests of investors and the provisions of each fund's underlying trust constitution.

8. Response to Question 10

Question 10: What role do incentives play in risks, how are these managed in practice by private market participants and are regulatory settings and current practices appropriate?

This question is posed by ASIC in the context of the fees charged by fund operators, which are usually tied to the financial performance of their funds. This incentive is inherent in the model of funds which seek returns by capital growth.

See our response at section 3 which sets out the PFA's view on this issue.

9. Response to Question 11

Question 11: What is the size of current and likely future exposures of retail investors to private markets?

The PFA does not have any specific and current data on the current exposure of retail investors to private markets.

As a general comment, the PFA considers that the increasing superannuation pool and diversification requirements will naturally lend themselves to significant increases in the number of retail investors in private markets. However, the PFA does not have visibility on data to that effect to make further comment.

10. Response to Question 12

Question 12: What additional benefits and risks arise from retail investor participation in private markets?

Retail investors can gain indirect access to unlisted retail funds and wholesale funds through their superannuation funds or by investing in listed funds which invest in unlisted funds. The benefits of this indirect participation by retail clients in unlisted funds include:

- a) access to funds with more innovative products as a result of the lower regulatory burden;
- b) superannuation funds and listed funds are required to, and have significant resources to, undertake their own sophisticated due diligence on potential investments; and
- c) retail investors can gain this exposure while still enjoying the benefit of the greater reporting obligations imposed on superannuation funds and listed funds.

The PFA considers that there are very limited risks associated with retail investors indirectly participating in private markets, as participation through listed funds or superannuation funds:

- a) remains subject to significant regulation, including those under:
 - i. Chapter 5C of the *Corporations Act 2001* (Cth) ('Act');
 - ii. Chapter 7 of the Act (including the design and distribution obligations under Part 7.8A;
 - iii. the *Australian Securities and Investments Commission Act 2001* (Cth);
 - iv. ASX (for listed funds); and
 - v. APRA (for superannuation funds); and
- b) benefits from the significant resources and sophistication of those funds and their professional advisers.

11. Response to Question 13

Question 13: Do current financial services laws provide sufficient protections for retail investors investing in private assets (for example, general licensee obligations, design and

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distribution obligations, disclosure obligations, prohibitions against misleading or deceptive conduct, and superannuation trustee obligations)?

The PFA considers that the current financial services laws provide extensive protections for retail investors investing in private assets. In the PFA's view, these measures adequately protect the interests of retail investors.

12. Response to Question 14

Question 14: What additional transparency measures relating to any aspect of public or private markets would be desirable to support market integrity and better inform investors and/or regulators?

For the reasons set out below, the PFA considers that ASIC has adequate data transparency and insights into unlisted property funds. The PFA notes that the Discussion Paper appears to focus on perceived risks to the financial system arising from:¹⁷

- a) the surge in popularity of private credit funds; and
- b) the potential contagion risk associated with private equity funds obtaining debt finance for their underlying portfolio companies from private credit funds, who provide greater leverage than is available from traditional lenders.

In particular, the Discussion Paper notes that: *'there is also no reliable data or precedent for forecasting how these interwoven tiers of private investment and leverage would perform and respond in a large-scale industry stress or 'workout' situation.'*

The Discussion Paper raises the possibility of data collection requirements being implemented to assist in the monitoring of these perceived risks. The PFA notes that:

- a) responsible entities of unlisted retail property funds are required by law to provide specific disclosure in respect the fund's gearing policy;¹⁸ and
- b) it is standard market practice for wholesale property funds to report on gearing policies and to prescribe maximum gearing ratios.

¹⁷ At Section 3.2.4.

¹⁸ Under RG 46.

ASIC's stated intention the need for improved data transparency in private markets is to improve market integrity and confidence and to monitor the broader financial system to improve efficiency and to address potential systematic risks. Whilst the PFA appreciates that this data may be necessary for other asset classes in the private markets, given the nature of unlisted property funds, the PFA does not consider that ASIC requires this data in relation to unlisted property funds.

13. Response to Question 15

Question 15: In the absence of greater transparency, what other tools are available to support market integrity and the fair treatment of investors in private markets?

The PFA is of the view that unlisted property funds are functioning properly and that there is no indication that investors in unlisted property funds are not being treated fairly. The PFA repeats its observations set out in section 3 above.