Australian Banking Association

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Australian Securities and Investments Commission
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By email: markets.consultation@asic.gov.au

To whom it may concern,

Australia's evolving capital markets: A discussion paper on the dynamics between public and private markets

The ABA thanks ASIC for the opportunity to comment on its discussion paper on the dynamics between public and private markets. We agree that this is an important topic for consideration, especially since private credit is an increasingly significant component of the market, with that increase likely representing a structural rather than cyclical change.

Given that change, it will be important to ensure there is a level playing field for public and private participants, to the extent that private credit directly competes with public markets as source of capital. As such, we support enhanced transparency and reporting standards to allow for effective monitoring and to assist with protection of retail and wholesale investors.

We will briefly comment on the main themes identified in the discussion paper.

Developments in global capital markets and their significance for Australia

The ABA welcomes private markets as a source of capital for Australian companies and of investment opportunities for Australians, including within superannuation. We expect private credit to continue to grow and potentially compete with traditional banks in some asset classes, given the substantial capital that needs to be deployed.

This will likely lead to an evolution in the allocation of investment portfolios to include more private market investments, providing greater diversification. This is particularly the case if public markets issuance remains weak.

We agree with the discussion paper in that regulatory settings are not the primary factor influencing listed equity activity in Australia. However, the complexity and burden of listing and ongoing requirements are significant considerations for entities deciding whether to list, potentially contributing to the low volume of listings. In particular, the costs associated with professional service providers, such as lawyers, auditors, and advisors, may deter small and medium companies from listing.

The interconnectedness of market activities means that there are a number of ways public and private markets converge. Key areas include increasing public/private markets partnerships in other markets between large asset managers, greater technological innovation making private markets assets more accessible to end investors alongside their public markets' investment portfolios, and liquidity mechanisms such as semi-liquid evergreens and cross-over funds (combination of public and private market assets within the single fund vehicle).

Healthy public equity markets

As noted above, there are significant considerations that limit the ability and propensity of firms to list publicly, particularly smaller and medium-sized entities. In contrast, we note that public secondary equity market trading remains strong, with appropriate and reasonable trading processes and protections for existing investors, including continuous disclosure requirements.

To enhance the attractiveness of the public market while maintaining core protections, ASIC could consider several actions:

- Approving listings on Cboe Australia, as making an alternative platform available for companies to list securities will increase competition which may in turn help reduce complexities in the ASX listing process.
- Supporting the ASX reviewing its listing requirements to identify areas for uplift that may increase listing numbers. Potential uplifts to ASX requirements could include:
    - changes to the free float requirement to allow owners to list while retaining a significant portion of shares;
    - lifting the prohibition on listing special purpose acquisition companies, which could increase indirect listings; or
    - introducing dual-class share listings which may increase the competitiveness of the ASX.
- Reviewing the simple corporate bond regime to encourage companies to list by simplifying the process of raising diversified capital from investors.

Private market risks and market efficiency and confidence

Enhancing transparency and reporting standards would help improve confidence in private markets and help to better understand the risks inherent in private credit and private market funds, by allowing for effective monitoring and improving retail and wholesale investor protections.

Potential areas for uplift include, but are not limited to:

- Valuations methodology;
- Collateral valuation independence;
- Defaulted loans conversion to equity and valuation of same;
- Standardised approach to mark-to-market of values;
- Provisions for stressed loans to protect investors liquidity, improve the relevant reporting and clear definition of stressed loans;
- Tenor mismatch of funding vs commitments;
- Fund level liquidity and gearing;
- Benchmarking;
- Transparency on fees and charges;
- Alignment of incentives; and
- Requiring Responsible Entities to adhere to similar standards of responsibility as those imposed on an auditor (or 2nd line ADI risk functions).

Any uplift would also need to be supported by clear regulatory guidance and access to data.

Retail investor participation in private markets

In the current state, there is limited transparency in the private market which may limit the ability of retail investors to make informed decisions on risk. This is particularly a concern for retail investment in private market (outside of superannuation given the scale of Australia's superannuation system and the regulatory oversight from APRA).

The complexity created through increased retail investor participation should be a focus for ASIC. We agree the key risks for retail investors include opacity, potential conflicts, valuation uncertainty, illiquidity, and leverage.

Enhanced protections for retail investors could be aimed at improving transparency and address information asymmetry. For example, requiring intermediaries to provide additional disclosures on liquidity risk and asset valuation. However, we note that regulatory changes should be balanced to avoid undue burden.

Transparency and monitoring of the financial system

As noted above, we support enhanced transparency and reporting standards to allow for effective monitoring and to assist with the protection of wholesale and, in particular, retail investors. We also support the introducing a legislative framework for the recurrent collection of data on managed investment schemes outlined in the paper.

Thank you for the opportunity to comment on this proposal. Should you have any questions please contact [redacted]

Kind regards,

[redacted]

Head of Economic Policy