14/05/2025

Joe Longo
Chair
Australian Securities and Investment Commission
100 Market Street
SYDNEY NSW 2000

Via email to **markets.consultation@asic.gov.au**

Dear Chair,

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

AustralianSuper welcomes the opportunity to provide feedback to the Australian Securities and Investment Commission's (ASIC's) discussion paper on Australia's evolving capital markets.

About AustralianSuper

AustralianSuper is Australia's largest superannuation fund and is run solely to benefit members. Over 3.5 million Australians are members of AustralianSuper, and we invest over $365 billion of retirement savings on their behalf. AustralianSuper's purpose is to help members achieve their best financial position in retirement, and our investment approach is designed to deliver on this goal.

AustralianSuper invests more than $165 billion of members' savings in Australian capital markets. Of this, more than $130 billion is invested in public markets, including listed equities, fixed income and cash. AustralianSuper is the largest active manager on the ASX, managing 95% of the Australian Equities portfolio internally.

AustralianSuper invests more than $30 billion in Australian private market assets, in infrastructure, property, private credit and private equity. Key Australian infrastructure assets owned or co-owned include Sydney Airport, NSW Ports, Indara Digital Infrastructure, Moorebank Intermodal Precinct, and Transurban Queensland.

Overview of response to discussion paper

As capital markets evolve, and the superannuation system matures, it is appropriate that regulators consider whether regulatory settings are effectively enhancing the operation of Australia's capital markets. It is important to strike the right balance, preserving the benefits that make Australia's public and private capital markets attractive to investors, and maintaining market integrity, regulatory certainty and effective governance.

Public and private markets in Australia operate efficiently and are trusted by participants, offering good capital allocation and investment opportunities. Both play important, distinct, and complementary roles in the economy and investment portfolios. By providing a broad set of investment opportunities with varied risk/return profiles, they facilitate diversification of risk and liquidity management, playing an essential role in funding retirement incomes for superannuation fund members.

Superannuation investments in Australian financial markets have thrived under a regulatory framework that balances market freedom with effective management of systemic risks. This framework is supported by the successful twin peaks regulatory model, where the Australian Prudential Regulation Authority (APRA) ensures the stability and soundness of superannuation funds, while the Australian Securities and Investments Commission (ASIC) oversees market integrity, conduct, and investor protection. The discussion paper makes observations on a range of matters, including decline in public markets, the role of superannuation in the Australian economy, and perceived and actual risks for different types of investors in private markets. As this work continues, refining these observations to identify specific problem/s and their drivers will support the development of a response that is fit-for-purpose and avoids unintended outcomes.

In order to assist with this, we outline below a number of considerations for ASIC as they formulate a view on the changing nature of these markets. Where we have identified key themes that are of particular interest, additional detail is provided in Attachments.

- **Attachment A**: The role of superannuation in Australia's public and private capital markets
- **Attachment B:** AustralianSuper's approach to investing in public and private markets
- **Attachment C:** Superannuation fund management of private market risks

Given the broad nature of the discussion paper, we have not sought to be exhaustive in our response. We would welcome ongoing engagement with ASIC on additional areas of interest as this work develops.

We encourage ASIC to include the following considerations as they develop their approach:

- **Superannuation investment in private markets delivers significant value to members and the economy:** AustralianSuper has invested in private markets since 1997 and these assets have delivered strong risk adjusted returns for members. Private equity and unlisted infrastructure have been two of AustralianSuper's top performing asset classes over the 15 years to 31 December 2024, delivering average annual returns of 11.9% and 10.8%, respectively[1]. Assessment of risks associated with private market investment should be made in the context of value delivered.
- **Superannuation funds have established capability to manage investment risk within a strong governance framework:** Well-managed RSEs investing in private markets have strong capability to manage the risks articulated in the discussion paper. They have strong due diligence and liquidity capability and are subject to regulatory guardrails, such as stress testing, a legislated restriction on leverage and a prudential requirement to be highly diversified.
- **The level of risk for retail investors derives from how they invest:** The breadth and nature of risks for retail investors is contingent upon an intermediary's ability to manage risk and deliver value on their behalf. Superannuation funds offer members cost-effective and prudentially regulated risk management. Retail investors accessing private markets outside APRA-regulated superannuation funds do not have access to the same risk management.
- **There is an opportunity to better protect retail investors in private markets outside APRA-regulated funds:** Particularly in private credit, retail investors may not fully understand the risks of leverage and illiquidity. ASIC can enhance outcomes for these investors by improving regulation for non-APRA regulated participants in private markets. This would align reporting and regulatory requirements with those of APRA-regulated investors, ensuring retail investors are better protected from high-risk, low-liquidity investments and unclear risk profiles. Solutions could include further disclosure of risks, product intervention powers, or consideration of a sophisticated investor test.
- **The current approach to regulation and data collection for APRA-regulated superannuation funds is effective and should be maintained:** As noted in the discussion paper, APRA and ASIC have complementary remits in relation to APRA-regulated superannuation funds, with APRA responsible for prudential regulation, including investment governance and data collection. This approach should be continued, with ongoing coordination ensuring APRA's extensive data on private market investments continues to be available to ASIC.
- **The impact of scale of superannuation funds under management is nuanced:** The discussion paper makes some initial observations on the impact of superannuation scale on domestic markets. Scale has delivered a range of investment benefits, including access to investment opportunities and downward pressure on costs. AustralianSuper is increasing our relative allocation to international markets. There is an opportunity for ASIC to further develop their understanding of the impacts of scale on domestic market participation and we welcome further engagement to support this.

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[1] Investment returns aren't guaranteed. Past performance isn't a reliable indicator of future returns.

- **Public and private markets are complimentary and interdependent, with each providing clear benefits in a diversified portfolio:** AustralianSuper does not see asset allocation decisions as a 'trade-off' between public and private markets. The interaction between public and private markets is dynamic, with each contributing to the efficiency, resilience and informational integrity of the other. AustralianSuper's allocation to domestic private over domestic public markets has not increased over time.

Applying these considerations to develop the themes outlined in the discussion paper will assist to ensure that an effective balance of regulation and market efficiency is maintained as this work progresses. We look forward to an opportunity to discuss these observations with you further.

If you would like to arrange a discussion, please contact [redacted], Manager, Government Relations and Public Policy ([redacted]**@australiansuper.com**).

Yours sincerely

[redacted]

[redacted], Chief Strategy Officer

Attachment A - The role of superannuation in Australia's public and private capital markets

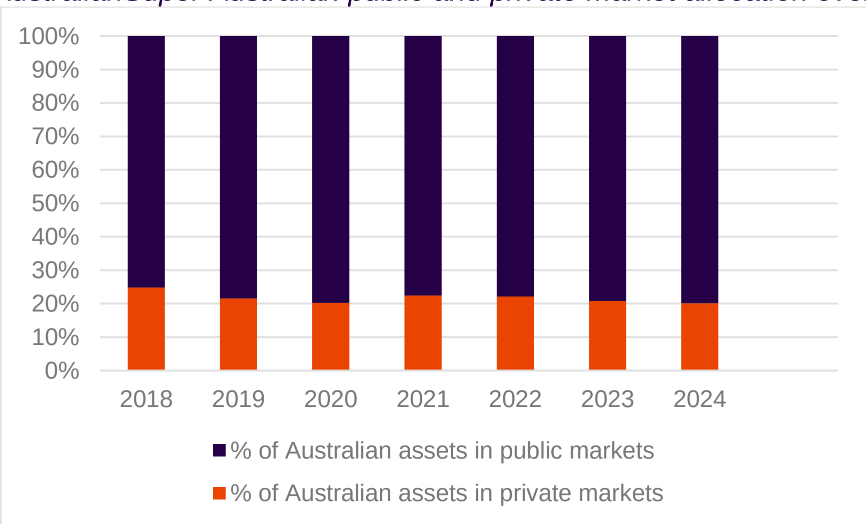
The discussion paper observes that *Australia's superannuation system is a significant force in Australia's capital markets, as superannuation contributions play a pivotal role in domestic investment, which supports the real economy*.

As well as supporting financial stability in Australia's economy by supplying markets with liquidity in periods of financial stress, superannuation has provided Australians with access to investment opportunities that would otherwise not be available to them, made possible by the pooling of member savings and by superannuation funds' capability to manage market risk.

In relation to observations about the role of superannuation raised in the discussion paper, we provide the following comments:

- **We do not expect superannuation's share of domestic public markets to grow indefinitely**. As member funds under management grow, the portion of new funds under management being invested internationally is increasing, driven by prudential obligations to diversify and statutory obligations to maximise member returns. In future, AustralianSuper expects to invest around $7 of every $10 of inflows offshore.
- **AustralianSuper has not increased the portion of member funds invested in Australian private markets at the expense of public markets.** The paper observes a shift of capital from public to private markets. AustralianSuper's relative allocation to each has remained broadly consistent, with the portion of funds in the balanced option allocated to private markets reducing slightly over the last decade.

AustralianSuper Australian public and private market allocation over time



- **Strong inflows are a feature of superannuation**, providing a unique foundation for private market investment by assisting superannuation funds to manage liquidity risks, and in turn, giving retail investors access to value delivered by the 'illiquidity premium' that is a feature of investment in private markets.
- **We see value in both public and private market investment** and do not view asset allocation decisions as a trade-off between the two. Our asset allocation decisions are made on the basis of the risk/return features of the asset and the needs of our members. Well selected private market assets offer long-term value, relative return stability and contribute to portfolio diversification.
- **There can be a distinction between value and price in both public and private markets.** We have defended against attempts to take public assets private where we believe they have been mispriced and should remain listed (e.g. Origin Energy, 2024). We have also participated in making appropriate offers to take assets private (e.g. Sydney Airport, 2022). In both cases members of AustralianSuper and retail investors benefitted from this key market

feature. A company transitioning off exchange to being privately held is an opportunity to test the actual value of that company and should not be negatively perceived.

  - The offer for Origin Energy was based on the depressed share price and did not recognise the true value of the company in terms of share price and its importance to the energy transition.
  - Sydney Airport is a world class infrastructure asset which could not realise its true value without a long-term capital commitment. This has been provided by a consortium including superannuation funds representing millions of superannuation members.

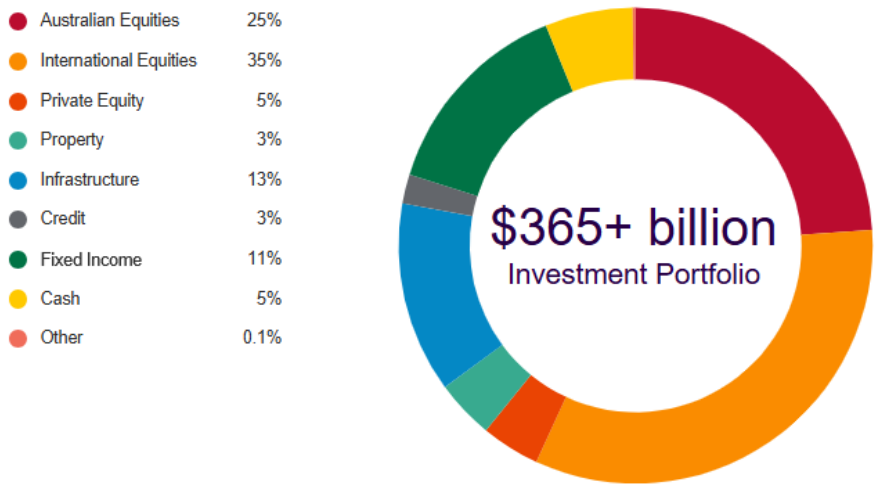
- **Australian public market investments will continue to be an important component of our portfolio.** We continue to have 25% of our portfolio invested in Australian equities, have participated in over 300 equity raisings since 2014, providing more than $5.9 billion to Australian companies and have committed more than $2 billion to supporting emerging Australian companies through investments in venture capital funds and micro-cap companies.
- **We do not see private market investments as inherently riskier than public market investments**. We have strong processes by which we assess the risk of each private market investment, in many cases benchmarking the profile against a listed equivalent. We mitigate the risks associated with private market investments through a range of controls, including an illiquid asset limit which limits the overall allocation to these investments in the portfolio.
- **Superannuation acts as an economic stabiliser** through having the ability to buy when others cannot. Due to legislatively assured inflows, if companies or assets are priced lower than their true long-term value, superannuation funds should be well positioned to act on this market mispricing. This benefits companies seeking to access capital during periods of stress, and adds to member returns when recovery occurs.
- **There are benefits of scale for investment outcomes.** Scale enables funds to facilitate unique access to attractive, large scale investment opportunities, negotiate beneficial commercial terms and reduce costs via internalisation.

Attachment B – AustralianSuper's approach to investing in private markets

Make-up of the portfolio

AustralianSuper invests across a range of asset classes in multiple geographies. The diversification of the portfolio is central to delivering for members in terms of both returns and providing the required variety of risk profiles for different life stages and circumstances. Maintaining a broad investible universe is critical to delivering the best possible retirement outcomes for members.

AustralianSuper total portfolio asset class allocation (Dec 2024)



Private market investments

Approach to investing in private/unlisted assets

AustralianSuper's investment team uses specialist funds and direct investment to access unlisted assets. We use our internal investment capability to source, evaluate and implement new investment opportunities, access large scale investments through direct, syndicated or co-investment deals and provide an appropriate investment allocation into multi-billion-dollar unlisted asset deals that, in some cases, may be too large to own in their entirety.

AustralianSuper's program of internalising investment management and investing directly into unlisted assets has been effective in lowering costs and efficiently deploying capital. AustralianSuper currently manages almost 60% of all member assets internally.

Infrastructure, property and private credit funds employ portfolio managers with significant experience and expertise in a particular market segment. Advantages of investing with these funds include access to their existing scale and the ability to diversify across sectors and geographic regions.

AustralianSuper invests in private equity through specialist funds managed by high quality private equity managers, while building strong relationships with those managers to co-invest and co-underwrite alongside them.

Having a local presence and building strong relationships with investment partners promotes the origination and implementation of investment deals. AustralianSuper's global expansion with an investment presence in the UK and the US, provides further opportunities to diversify direct investment holdings across regions and seek the most attractive investment strategies in infrastructure, property, private equity and credit.

The benefits of investing in private market assets

We invest with a long-term time horizon which matches members' typical investment profile. This long-term approach is aligned with companies that want to make large, long-term capital allocation decisions. Unlisted infrastructure and property investments often match this long-term profile. The long-term investment approach favoured by private assets contrasts with pressure faced by listed companies to focus on delivering shorter term outcomes.

Private market assets also offer important diversification benefits, with risk/return profiles that vary against public market assets and across private market asset classes. Unlisted assets like property and infrastructure typically provide mid-risk opportunities, while private equity provides high-growth and private credit typically provides lower risk opportunities. Allocating to multiple asset classes with lower correlations to each other diversifies portfolio risk.

Unlisted assets can generate steady income streams. For example, income can be earned from rents locked in over a fixed term contract period or returns from a power station or toll road subject to a long-term agreement. From a total return perspective property and infrastructure assets tend to display less volatility than listed equities.

Investing into unlisted assets typically has features such as high barriers to entry, high transaction costs, complexity and illiquidity that have historically provided a return premium on these assets. Having sufficient resources to analyse and evaluate unlisted opportunities, as well as negotiate and implement contractual terms, requires adequate scale to justify the allocation of resources to execute at a reasonable cost. These factors can provide an illiquidity return premium for suitably skilled patient investors that can allocate long-term capital to invest in unlisted assets.

Private credit

AustralianSuper has approximately $10.9 billion invested in private credit globally, this represents less than 3% of AustralianSuper’s assets under management. Our private credit exposure is via a mix of direct lending by our in-house private credit team and strategic partnerships with best-in-class specialist managers. The majority of our private credit investment is global, as the Australian market is heavily “banked”, with much of the credit/loan provision provided by the major banks. Generally, the provision of private credit by institutional investors is more prevalent where the dominant form of credit is public (i.e. bond markets).

Private credit has grown as an asset class out of regulatory tailwinds following the 2008 financial crisis and a shift off bank balance sheets into institutional and private investors. Private credit has also expanded as borrowers are attracted to the private lending market for more flexible financings and ability to offer tailored solutions to support M&A activity, as well as support in challenging times when public credit markets are closed.

AustralianSuper incorporates private credit into the portfolio to achieve greater diversification as it tends to be less correlated with public markets and so bolsters the portfolio's ability to withstand adverse market conditions. This risk mitigation and overall portfolio stability is in the Fund's members' best financial interests. From a performance perspective, private credit has historically outperformed public credit like leveraged loans and high yield bonds. Returns from our private credit portfolio over the 5 years to 31 December 2024 have been favourable for members on a risk adjusted basis, reflecting the higher interest rate environment and attractive credit spreads.

Attachment C – Superannuation fund management of private market risks

In the discussion paper ASIC identifies a number of risks present in private market opportunities. The extent to which these risks apply to different types of investors varies significantly.

Superannuation funds are appropriately regulated and well-placed to understand and manage these risks. We will not invest where insufficient information is available to manage risk, or where opportunities are opaque, have unacceptable conflicts, unmanageable valuation uncertainty, inappropriate illiquidity or use excessive leverage.

Opacity and unfair treatment of investors

AustralianSuper does not see opacity as a significant concern for large, well-managed RSEs investing in private markets. Before making a direct investment, AustralianSuper conducts extensive market research and due diligence of an asset typically with the assistance of a financial advisor and specialist third party consultants (e.g. business plan, legal, tax, accounting, market, insurance, ESG). A due diligence process often also includes conversations with management, and the vendor providing a data-room with relevant transaction information.

This information feeds financial models including forecast cash flows, along with detailed investment papers outlining the investment thesis, portfolio fit and due diligence findings that are considered by the relevant delegation of the investment committee.

Ongoing transparency of private market investments is provided by robust governance arrangements that may include Board representation, access to management and regular reporting.

Similarly, AustralianSuper has a clear process to ensure externally managed private investment contracts provide the necessary service and performance levels, disclosure on fees, rights of review and access to the manager.

If there is insufficient information available to appropriately/sufficiently assess potential risk, we are unlikely to make an investment.

Management of conflicts of interest

AustralianSuper has not identified significant unmanaged risk in relation to conflicts of interest for RSEs investing in private markets. Unlike other intermediaries, RSEs are required by statute to operate in the best financial interests of superannuation fund members.

Understanding potential conflicts of interest is a key part of the due diligence process undertaken when making an investment.

RSEs operate under obligations to have adequate arrangements for the management of conflicts of interest (including section 912A Corporations Act 2001 (Cth)). AustralianSuper manages the risk of conflicts of interest through our Conflicts Management policy which is public and can be found on our website.

In accordance with legislation, we disclose our fees. Ensuring fees are appropriate is also done at the industry level via the APRA Performance Test which seeks to highlight which funds are not providing suitable returns for the fees they charge. This test has already seen a number of underperformers exit the industry.

We support ASIC's commitment to update RG 181 Licensing: Managing conflicts of interest and agree that licensees must determine, on an ongoing basis, what arrangements (i.e. measures, processes and procedures) they need to have in place to ensure they maintain adequate conflicts management arrangements.

Valuation of illiquid assets

Valuation risks are well managed for APRA-regulated RSEs. Clear guidance on the valuation of private market assets is set out by APRA, through extensive consultation and ongoing development. This requires superannuation funds to have well-designed valuation governance frameworks that include the structures, processes, procedures and controls necessary to identify and manage valuation risk.

AustralianSuper considers our valuation governance framework to be best practice. It includes a requirement for regular independent valuations across our unlisted assets portfolio, an internal valuation team comprised of personnel with specialist valuation skills, independent from the investment team, and a valuation committee comprised of internal and external experts. It stipulates the appropriate frequency of valuation of unlisted assets and allows for increased valuation frequency where an asset or market trigger event may impact the assessed value of these assets. Independent valuers are chosen for their expertise and local market knowledge and rotated appropriately.

Consistent with APRA's guidance, AustralianSuper's valuation of investment assets complies with generally accepted accounting principles including AASB 1056 'Superannuation Entities'.

Vulnerabilities from leverage

Leverage is a feature in both public and private market assets. Private market assets are diverse, and may be subject to more or less leverage than similar listed assets. Understanding leverage is a key part of the due diligence process undertaken when making an investment.

As with other investment risks, large, well-managed RSEs have the capability to understand and manage leverage risk in their investments. AustralianSuper's fund Risk Management Strategy considers leverage, and we employ suitably skilled staff to identify and manage associated risks. Consideration of leverage is incorporated into investment decision making as we assess the risk/return profile of the asset.

Unlike other types of funds, superannuation funds are legislatively prohibited from using leverage themselves. Section 67 of the *Superannuation Industry (Supervision) Act 1993 (SIS Act)* prohibits superannuation funds from borrowing money (with certain exceptions) to address short term cash flow needs.

Investment liquidity

While private market investment can present liquidity risk, AustralianSuper's strong inflows and robust liquidity management ensures this is effectively managed. AustralianSuper has access to diverse sources of liquidity, which means that we do not rely on private market assets as a source of liquidity during times of crisis or stress.

AustralianSuper has made significant investments in building a global liquidity and Treasury function and is the first Australian superannuation fund to appoint a Chief Liquidity Officer. This internal capability enables AustralianSuper to optimise management of capital flows, liquidity risks, transaction costs and investment strategy implementation. The Treasury function also conducts regular stress testing to inform the levels of liquidity buffers required.

AustralianSuper's capability to manage this risk was evidenced during recent market volatility which occurred simultaneous to a cyber incident. While we did not experience significant withdrawals at this time, the Fund was in a strong liquidity position to have met any large unexpected withdrawals during a simultaneous event of this nature.

AustralianSuper is currently involved in the industry-wide stress test being conducted by APRA, and is in ongoing dialogue with regulators and the Reserve Bank of Australia around liquidity management and markets conditions more generally.