Stockbrokers and Investment Advisers Association
Building prosperity for Australian investors

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Email: markets.consultation@asic.gov.au

Pre-lodgement advertising and publicity – Consultation feedback
Market Integrity, Corporate Finance
Australian Securities and Investments Commission
GPO Box 9827
MELBOURNE VIC 3001

Dear Sir/Madam

Consultation paper 390: Proposed reform to the pre-lodgement advertising and publicity regime

The Stockbrokers and Investment Advisers Association (SIAA) is the professional body for the stockbroking and investment advice industry. Our members are Market Participants and wealth management firms that provide securities and investment advice, execution services and equity capital-raising for Australian investors, both retail and wholesale, and for businesses. Practitioner Members are suitably qualified professionals who are employed in the securities and derivatives industry.

SIAA members represent the full range of advice providers from full-service and online brokers to execution-only participants and provide wealth advice and portfolio management services.

The history of the stockbroking profession in Australia can be found here.

Thank you for the opportunity to provide feedback to the consultation on proposed reform to the pre-lodgement advertising and publicity regime.

Executive summary

- SIAA strongly supports the proposed changes to the Corporations Act and ASIC's objective of modernising the pre-lodgement advertising and publicity regime. The existing regime can prevent meaningful engagement with retail investors at the very stage when institutional and wholesale investors may already be becoming familiar with an issuer and a prospective offer. This can leave retail investors with considerably less time to understand an investment opportunity and can make retail participation particularly difficult in accelerated and cross-border transactions.

- SIAA considers that the reform can enable meaningful investor education, promote more equal access to information and participation opportunities for retail investors, and allow intermediaries to gauge genuine retail demand, including through non-binding expressions of interest.
- The recent SpaceX IPO provides a useful practical example. ASIC granted individual relief permitting specified pre-prospectus communications with Australian retail investors. The changes proposed by ASIC in this consultation paper provide an opportunity to establish a clear and generally available framework capable of facilitating similar outcomes without the need for transaction-specific relief.
- SIAA recommends that ASIC:
    - proceed with the proposed changes;
    - expressly confirm that permissible pre-lodgement engagement includes meaningful investor education;
    - confirm that intermediaries may obtain non-binding expressions of interest from retail investors;
    - clarify the information that may be provided to retail investors, including when institutional investor education material may be adapted for retail use;
    - provide practical examples and an ASIC-endorsed form of warning for pre-lodgement retail communications; and
    - ensure the final framework is sufficiently flexible to facilitate cross-border transactions of the kind demonstrated by the SpaceX IPO without requiring routine applications for individual relief.

We provide our feedback to the specific consultation questions below.

Amendment of subsection 734 (5) of the Corporations Act

B1Q1 - Do you agree with ASIC's proposal?

Yes. SIAA strongly supports Proposal B1 to amend section 734 (5) of the Corporations Act to provide an exception for pre-lodgement offers of unquoted securities from the advertising and publicity prohibition in section 734 (2), where prescribed disclosures are included.

The proposed approach appropriately shifts the focus from prohibiting communications to ensuring that communications occur in a controlled and accountable manner and that investors remain directed to the prospectus as the primary disclosure document.

Retail investor education

An important benefit of the reform will be the ability to provide retail investors with meaningful information earlier in the process. This should be understood primarily as investor education rather than simply advertising. An intermediary discussing a forthcoming offer with an existing retail client will commonly be seeking to help that client understand the issuer, its business and the nature of the proposed investment opportunity.

Meaningful investor education must extend beyond notifying a client that an IPO may occur. It should allow sufficient factual and explanatory information to be provided for the investor to begin understanding the issuer and the potential transaction. That engagement does not displace the prospectus; earlier education enables investors to engage more effectively with it when available.

Improving retail participation and levelling the playing field

Institutional investors may have opportunities to become familiar with a prospective transaction during pre-lodgement market sounding, research and roadshow processes. Retail investors frequently do not have equivalent opportunities. Once a prospectus is lodged, the period available to retail investors can be very short, particularly for complex issuers or accelerated transactions.

Earlier engagement can give retail investors the time needed to understand an issuer and make a considered decision. It can also give issuers and intermediaries greater confidence that sufficient retail interest exists to justify making an allocation available to retail investors. A framework permitting substantially equivalent investor education, appropriately adapted and accompanied by relevant warnings, would help place investors on a more equal informational footing.

B1Q2 - Would you suggest any changes to ASIC's proposed approach?

SIAA **recommends** that ASIC proceed with the proposed legislative instrument but supplement it with clear guidance addressing the practical scope of permissible pre-lodgement communications. The key issue for our members is not only whether communication is permissible in principle, but how far that communication may go. Without sufficient clarity, firms may continue adopting conservative practices, reducing the benefit of the change.

Non-binding expressions of interest

ASIC should expressly confirm that intermediaries may gauge potential retail demand by seeking non-binding expressions of interest before lodgement. Issuers and intermediaries need some ability to determine whether retail demand exists before committing resources or allocations to a retail component.

Content of investor education

ASIC should clarify what may constitute permissible investor education material, including when information used in institutional or wholesale investor education can also be provided, or appropriately adapted, for retail investors. The focus should be on information being accurate, balanced, appropriately qualified and not misleading or deceptive - not on unnecessarily limiting retail investors to a smaller body of information.

Guidance should include practical examples covering one-to-one client communications, investor education sessions, electronic and written materials, and discussions about an issuer's business, proposed transaction structure and indicative timetable.

SpaceX - a practical example

The recent SpaceX IPO illustrates why the reform is important. SpaceX lodged an Australian prospectus on 4 June 2026 as part of its global IPO. The Australian offer was scheduled to close at 5.00 pm on 10 June 2026, with a supplementary prospectus containing the final price expected on 11 June and commencement of trading in the United States on 12 June. The timetable demonstrates

the practical difficulty of commencing substantive retail engagement only after prospectus lodgement.

Importantly, the Australian prospectus records that ASIC provided relief from the pre-prospectus advertising and publicity rules in subsection 734(2), permitting SpaceX and participating Australian brokers to communicate specified matters to members of the Australian public, including retail investors, before lodgement of the Australian prospectus.

ASIC subsequently described its approach to the SpaceX transaction as a measured and pragmatic response to a novel cross-border IPO. The disclosure package consisted of the US registration statement together with a substantial Australian-specific supplement dealing with matters such as Australian-specific risks, prospective financial information, governance arrangements and differences between US and Australian market practices.

SIAA considers the transaction an important illustration of the policy case for the proposed changes to section 734 (5) of the Corporations Act. It demonstrates that appropriate pre-lodgement communication with retail investors can be facilitated without undermining investor protection or the central role of formal disclosure. It also demonstrates why flexibility is particularly important for international offerings: if Australian investors cannot be engaged sufficiently early, Australian retail participation may become difficult or uneconomic to facilitate.

Intermediaries should not ordinarily need bespoke relief to achieve an outcome that can be addressed through a clear and appropriately safeguarded general regime. The proposed changes should therefore provide a generally available framework capable of facilitating the type of appropriate pre-lodgement retail engagement demonstrated in the SpaceX transaction.

B1Q3 – Do you have any comments on the prescribed statements required to be included in any pre-lodgement advertising and/or publicity?

SIAA broadly supports the prescribed statements proposed by ASIC. They appropriately reinforce the role of the disclosure document. SIAA recommends, however, that they remain short, clear and capable of practical use across different communication channels.

For communications intended to gauge demand or obtain a non-binding expression of interest, ASIC should provide an endorsed form of additional warning making clear that any expression of interest is non-binding and does not constitute an application for securities.

A standard or ASIC-endorsed warning would promote consistency and give intermediaries greater confidence. ASIC should also allow prescribed statements to be presented in a manner appropriate to the communication medium.

B2Q1 – Do you agree with the proposal to revoke ASIC instrument 2020/722

SIAA supports Proposal B2 in principle. Maintaining overlapping instruments would create unnecessary complexity, provided ASIC is satisfied that the final form of the new instrument does not inadvertently remove useful existing permissions.

B2Q2 – Would you suggest any changes to our proposed approach? If so, please provide details.

Before revocation, ASIC should confirm that the new framework comprehensively accommodates the communications presently permitted by Instrument 2020/722 and that there are no transitional gaps.

SIAA also supports retaining the separate Market Research and Roadshows Instrument 2026/93.

Regulatory and financial impact

SIAA expects the proposed reforms to have a positive effect on competition and capital formation. The reform should reduce legal and compliance uncertainty and, over time, reduce the need for transaction-specific relief applications.

It should also improve the competitiveness of Australia's public markets and the attractiveness of including Australian retail investors in domestic and international transactions. Benefits are likely to include greater retail engagement, broader retail participation and better-informed investors. Earlier engagement also enables issuers and intermediaries to assess whether retail demand exists before determining the size and structure of a retail offer.

Conclusion

SIAA strongly supports ASIC's proposed reform. For SIAA, the principal benefit is not simply greater ability to advertise an upcoming offer. It is the ability to undertake meaningful investor education and engagement. A successful regime should allow retail investors to begin understanding an opportunity before the prospectus is lodged, reduce the informational gap between retail and institutional investors and enable intermediaries to assess genuine retail demand.

A clear framework of this kind would preserve the prospectus as the primary disclosure document while giving Australian retail investors a fairer opportunity to understand and participate in domestic and global capital raisings.

If you require additional information or wish to discuss this submission in greater detail, please do not hesitate to contact SIAA's policy manager, [redacted], using the contact details in the covering email.

Yours faithfully

[redacted]

[redacted]
Chief Executive Officer