Submission

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

Commercial & Asset Finance Brokers Association of Australia

Prepared June 2025

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ASIC
GPO Box 9827
Melbourne VIC 3001

5 June 2025

By email: markets.consultation@asic.gov.au

Dear Sir or Madam,

RE: Australia's Evolving Capital Markets: A discussion paper on the dynamics between public and private markets

The Commercial & Asset Finance Brokers Association of Australia Limited (CAFBA) is a strong voice for issues within the small business and commercial finance sectors, and we welcome the opportunity to submit our commentary and insight to assist ASIC in the industry consultation on the regulation of the private credit market.

CAFBA members are professional commercial finance brokers committed to providing the best quality service to our small business clients.

The CAFBA board members, staff, and our members are pleased to continue working with ASIC and are willing to make ourselves available to assist you with the development of final recommendations.

Yours sincerely,

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CAFBA
Commercial & Asset Finance Brokers Association of Australia

About the Commercial & Asset Finance Brokers Associate of Australia (CAFBA)

CAFBA is the industry association for professional commercial finance brokers in Australia, whose prime area of business is the distribution of commercial finance facilities to their clients. Our members include approximately 1,500 firms and brokers nationwide and our affiliate members are represented by Australia's major finance providers.

CAFBA works on behalf of our members to promote and encourage policies that advance the commercial finance industry and access to finance in Australia through government and legislative lobbying, education, and professional development.

In 2020, CAFBA commissioned East & Partners, a global leading banking and business advisory firm, to undertake a Broker Channel Analysis in the Australian Asset and Equipment Finance Markets. The research concluded that 72% of new commercial equipment finance is sourced through commercial brokers, up from 64% in 2017. These are the brokers who CAFBA represents.

CAFBA is a member of the Council of Small Business Organisations Australia ("COSBOA") and The Australian Finance Industry Association ("AFIA").

CAFBA members know that providing Australian small businesses with access to finance is crucial to economic growth. Although brokers are commonly associated with home loans, CAFBA members work in a complex environment to provide a boutique service. Without the work of CAFBA's professional members, many Australian small business owners would struggle to navigate the complexities involved with commercial and equipment finance.

The overall commercial finance market is Australia is believed to be over $300 Billion annually, so we represent a very significant part of the Australian economy. Positive fiscal policy in this sector benefits the whole of the economy.

CAFBA embodies the strengths of its members in a unified approach for dealing with financiers and legislators at a national level and regularly seeks the views of members. As an association, CAFBA provides the framework and support to professionally assist our members in their daily activities. This involves education and training, legislative and regulatory updates and forums where the members can interact and exchange ideas with their peers.

CAFBA prides itself on being self-regulating and maintains strict membership standards on probity, continuing professional development, industry experience, and reputation. It is a condition of CAFBA membership that commercial finance brokers must belong to an ASIC-approved External Dispute Resolution Scheme.

Overview of Commercial Lending & the Private Credit Market

1. The role of Brokers and Intermediaries

CAFBA members play a vital role in facilitating funding outcomes for SMEs, property developers and investors. Our members – many of them small business owners – represent the needs and interests of a range of clients and customers, advocating on their behalf.

We engage directly with both bank and non-bank lenders to source the most suitable finance structure, risk profile and terms for each client. A strong and diverse lending market is essential to ensuring borrowers have both choice and certainty in accessing capital when they need it most.

Brokers and intermediaries conduct their own due diligence in implementing their lender panel. This includes understanding capital sources, practices, leadership, as well as past funding experience.

2. Commercial Finance and the Private Credit Market

Segmentation of Market Activity

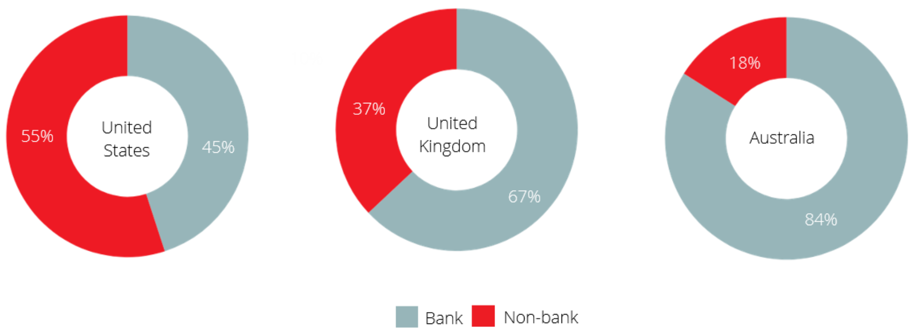
CAFBA differentiates lending between:

- Business lending (non-real estate)
- Commercial real estate finance (including development and investment loans)
- Residential mortgage finance (excluded from CAFBA's remittance, and as such this submission).

After lending practices and bank regulations where tightened following the Global Financial Crisis, the private credit market has expanded to fill the gap, offering faster and more flexible capital particularly in the mid-market. In 2022 there were already 600 non-bank lenders in Australia.

RBA commentary in September 2024, noted that the private credit sector accounts for around 11% of business lending, only a small share of the market total.

Similarly, in CRE loan origination, the private credit market hovers around 18%. When compared to overseas, and more mature markets, there is room to grow.



CRE loans origination sources & annual debt origination values

Sources: Cohen and Steers 2023; Property Industry Alliance 2022; Foresight Analytics 2023

Complementary to Bank Lending

The private credit market is not a substitute for the regulated banking sector, but a complementary part of the credit ecosystem. It provides an essential alternative source of funding for borrowers whose risk profiles may no longer align with bank appetite.

Previously, these customers would have been forced into asset sales, or bank lenders left with no other option but to appoint receivers. Now, clients can refinance to private credit, work on de-risking their loan, before it can re-enter the bank lending ecosystem.

For some of our members arranging CRE finance, the shift towards non-bank lending has been significant and predominantly in funding development transactions, where banks have been more conservative and recently less willing to play. Undoubtedly, Australia's housing market crisis would have been exacerbated without alternative access to capital providing both depth and difference in risk pricing and appetite.

Broader Economic Role

Private credit markets support continuity of capital flows, particularly in times of tightening bank policy. They are a pressure release valve for the banking system and act as a buffer against liquidity shocks that could otherwise harm asset values and trigger unnecessary distress amongst SMEs and property developers.

Where bank lenders have pulled back due to global events such as the Global Financial Crisis or COVID-19, or cannot offer competitive products, the private credit market has been able to fill a much-needed gap and ensure the capital markets remain liquid.

With the ability to adapt quicker to market conditions and changes in consumer behaviour and sentiment, the private credit market has been able to ensure continuity of business practices and property development across Australia. Continual liquidity is important to the Australian economy. Robust access to different capital sources means:

- Developers can continue progressing projects during early phases where bank appetite may be constrained.
- Business owners can refinance or recapitalise to preserve operations or growth, even when short-term cash flow or asset positions prevent bank qualification.
- Capital remains accessible even during cyclical tightening or regulatory contraction in the banking system.

By keeping these businesses funded and trading, private credit supports employment, investment and economic activity across the country. Without this market – or if it were overly constrained by regulation – many borrowers would be forced to sell assets prematurely, pause developments, stymie the growth of their businesses or, in worst cases, face insolvency.

The existence and continued evolution of a competitive private credit sector is therefore not only beneficial to individual borrowers, but to the broader resilience and efficiency of Australia's financial system.

Market Efficiency and Accessibility

Increased competition in the lending space has ensured the cost of capital is not prohibitive, which has encouraged continual lending activity through a rate hiking cycle. While private loans typically attract a premium to compensate for higher perceived risk, reduced covenant protection or bespoke structures, this premium has narrowed significantly in recent years.

The growth in private credit, from the product mix available through to liquidity, has placed downward pressure on margins leading to greater outcomes for borrowers, particularly in the small- to mid-market.

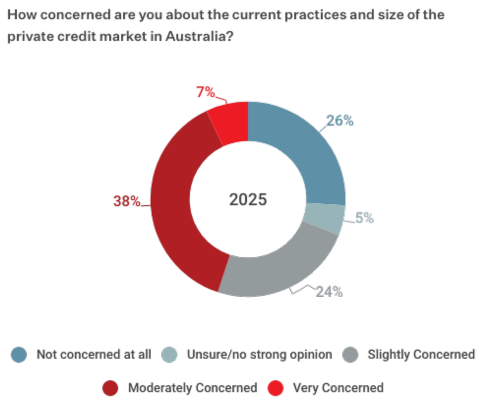
In practical terms, the cost of capital in the private market is often only modestly higher than comparable bank offerings, especially when adjusted for factors such as execution speed, lower presale hurdles, tailored terms and capital availability. For many borrowers, private capital can represent a more cost-effective solution when total costs, including opportunity cost and project delays, are considered.

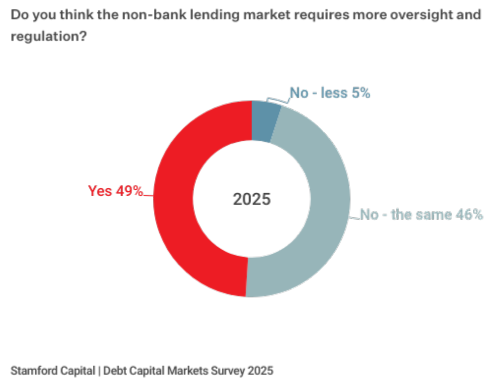
3. <u>Regulatory Concerns and Implications</u>

Current Lender Sentiment

CAFBA member Stamford Capital surveyed their lender partners (major banks, second-tier banks, non-banks, private institutions and some offshore funds) in their annual Debt Capital Markets Survey about their sentiments on the private credit market. When asked whether they were concerned about the current size and practices of the private credit market, 69% had at least some level of concern. Broken down by lender type, this sentiment was higher amongst bank lenders (86%), but still high at 60% amongst non-banks.

Lenders were also asked whether they believed the private credit market required more oversight and regulation. Almost half of respondents (49%) said yes, while 46% believe no, and even 5% believed *less* oversight and regulation was required. By lender type, 43% of non-banks believed that the non-bank space required more regulation and oversight, while banks sat at 60%. So, while there is a broad level of concern across the market, whether more regulation is the answer remains to be seen.





Avoiding Over-Regulation
Overly prescriptive regulation of private credit could significantly reduce credit availability for SMEs and property developers. This would not only increase borrowing costs but also place downward pressure on asset values, particularly in commercial property. Fewer capital options would lead to delays in securing funding, which could lead to stalled projects, distressed sales and broader market volatility. Changes to private credit regulation should be proportionate to the risk and sophistication of the underlying investor base, financial stability, and economic productivity.

Retail Investor Protection
CAFBA recognises the need for clear and consistent standards where retail investors are exposed to private credit products. We urge regulators to differentiate between retail-facing investment structures where heightened disclosure and investor protections may be appropriate (and should be covered by existing legislation), and institutional or wholesale-only investment vehicles, which do not require prescriptive regulation.

4. Key Recommendations

Private credit has become a vital channel for capital allocation in Australia, particularly for small and medium-sized enterprises (SMEs), commercial property developers, and mid-market borrowers who may not meet bank credit criteria. Any regulatory response must therefore strike a careful balance ensuring market integrity and investor protection without compromising the availability, flexibility and efficiency of capital.

There is minimal research on the size and general sentiment pertaining to the private credit market in Australia. Given the current size of the private credit market in Australia is inadequate to cause broader economic disruption, we encourage ASIC to engage in dedicated market research, data gathering, and ongoing monitoring given the importance of the market as a complementary alternative source of capital. A clearer understanding of the market's scale and characteristics are essential for informing proportionate and effective regulatory response. Evidence-based policymaking in this area will help preserve market functionality while ensuring appropriate risk oversight.

CAFBA supports a balanced regulatory response that protects market participants while preserving capital flexibility. We believe there is no need to regulate the asset side of private lenders. It is imperative that the market determines asset pricing.

CAFBA recognises the value of enhanced transparency in capital markets, particularly where investor confidence and systemic visibility are concerned. However, any consideration of reporting standards on the liability side of private credit markets must be designed with care, especially in relation to borrower privacy and commercial confidentiality.

To enhance transparency without compromising borrower confidentiality, we propose that reporting frameworks be based on portfolio-level metrics such as:

- Default rates (%)
- Arrears rates (%)
- Loan-to-Value Ratio (LVR)
- Loan-to-Cost (LTC)
- Interest Cover Ratio (ICR)
- Geographic exposure
- Borrower concentration
- Asset exposures greater than 5% of total portfolio

5. Conclusion

The private credit market plays a crucial role in Australia's financial system, particularly in supporting SMEs and property sectors during periods of transition or uncertainty. It complements the regulated banking system, improves access to capital, and supports broader economic health.

CAFBA urges ASIC to consider a regulatory approach that maintains this balance. We thank you for the opportunity to provide feedback and would welcome further engagement on this important topic.

End of Submission.

For further discussion please contact

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