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The comments below are in the context of the ASIC Discussion Paper (February 2025) _ Australia's evolving capital markets. The comments are considered a personal perspective (and as such are not reflective of the view of [redacted] The comments leverage my international experience in how the funding of key major projects has worked in other jurisdictions, including the UK as well as Europe (under EIOPA, the European Insurance and Occupational Pensions Authority). The comments are through the lens of an insurance balance sheet Chief Investment Officer., having had active exposures to private debt (including infra, mid-market loans, broadly syndicated, senior commercial real estate, and CLO's), private equity, hedge funds, and direct commercial real estate assets.

Developments in global capital markets and their significance for Australia

1. What key impacts have global market developments had on Australian capital markets? What key impacts do you anticipate in the future? Please provide examples from your experience.

The key impact (to Australia) of the implementation of the Basel III regime is that traditional financing banks have not had to disburse/offload their loan portfolios to the same extent as banks in the US and Europe. Arguably this has been one of the biggest drivers to global private capital markets in the past twenty years. In an Australian context, the development of private capital markets has lagged offshore markets by (an estimated) ten years.

This gap is evidenced by the relative lack of deal flow (than similar sized capital markets), and an almost complete absence of secondary market trading (for both debt and equity). It is also noted (for insurers) that the regulatory capital treatment (of APRA) lags other jurisdictions which are more accommodative to private assets. For example, EIOPA (European Insurance and Occupational Pensions Authority) offers concessional treatment of infrastructure debt at the same level as sovereign bonds, rather than penalizing the illiquid asset class.

For insurers, under the APRA solvency capital framework, investment in (non-rated) debt securities are treated with an implied credit rating of "BB flat" or non-investment grade. Using an example of 5yr duration private debt asset, this necessitates a solvency capital charge of ~20%. Compared to the EIOPA framework for private infrastructure debt, the levied capital charge is the same as for sovereign bonds. In this Australian example, the sovereign bond rating for 5yr duration debt is ~2%, hence there is a considerable difference in the capital treatment that is applied.

This illustration has practical consequences; namely in respect of return on asset considerations, where the return needs to generate a 10x improvement over sovereign bonds to reflect this higher solvency capital charge. Permitting a less onerous capital charge in turn will free up additional asset demand.

On future market developments, I'd envisage a market more akin to Europe than the US [specifically in respect of the preservation of loan covenants rather than a watering down, or 'cov-lite' style approach that typifies the US].

I'd also envisage the development of an active secondaries market (to address some of the illiquidity aspects of primary issuance into private markets).

Lastly, I'd envisage (from an ASIC perspective) a framework being applied to Industry Super Funds around the degree of liquidity needed (much like the liquidity tests applied to insurance companies) to support the switch from asset accumulation to more retirees needing de-risked or decumulation strategies.

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

From an asset owner perspective (being a global insurance company with P&C and life business in Australia), our primary motivator for private market access is to tap into a) the illiquidity premia, and b) secure access to further diversification via lowly correlated asset classes (ie including assets which are unavailable in the public markets).

In terms of defining private assets – these are taken to include debt [infrastructure, senior commercial real estate loans, middle market loans, broadly syndicated loans, private placements, collateralized loan obligations (CLO), and asset backed securities (ABS)], whilst for equities includes [private equity strategies inc fund of funds, hedge funds].

I think it's useful to delineate between the specific types of investors. There are a number of cohorts of prospective investors; ranging from foreign investors and sovereign wealth funds, to locally managed and run collective investment schemes, through to the industry superannuation funds (as well as Self Managed Funds). All of these prospective investors have a myriad of considerations, which are outlined below.

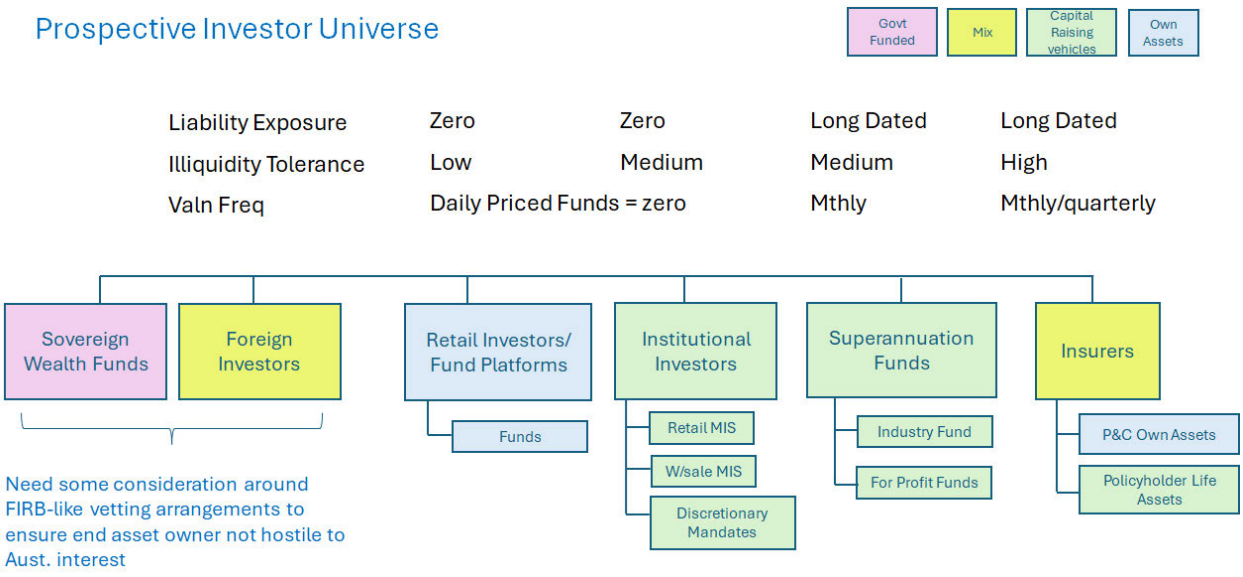
One the one hand the Foreign SWF's and other offshore investors. These have specific other issues (namely approval protocols for the ownerships of key Australian assets) – which for the most part are probably not contemplated with Private Debt markets including Asset Backed Securities, or Broadly Syndicated Loans/ Mid-Market loans – but could however be relevant for critical infrastructure type assets ie roads/rail/ports/airports et al. These are different considerations from simply valuation, or liquidity concerns.

In terms of the domestic market investor base, considerations include; a) liability exposure (none or some, and short tailed P&C or long duration life insurance liabilities); b) the investor illiquidity tolerance (where for argument sake a retail investor in a cash fund would not have an appetite), through to investors (like insurers) who manage liquidity under stressed scenarios; and lastly, c) investors who are not impacted with delayed valuation lags, or with illiquid exposures; as compared to investors with daily pricing or mark to market needs.

This last aspect is a fairly crucial observation – and has parallels with what we saw during the GFC (Global Financial Crisis) where you had for example two identical buildings side by side, with similar rental profiles. If one of these owners was a forced seller, and the other had ample liquidity and didn't need to sell, you could have two different valuations – highlighting one of the major issues with private assets.

Assets should only be purchased if the investor plans HTM (hold to maturity), and the value of the asset is amortized to maturity. In private markets in the US, and Europe, there is an active secondary market, but the market in Australia for now is too immature in its development. Eventually as private assets become more accepted, as too will be the development of a viable secondaries market, for now, there is focus to HTM reflecting this illiquidity.

Does this pose a problem? Generally the thinking is no, insofar as many of these financing activities are for durations less than five years, hence the element of illiquidity should be tolerable over this shorter period.



The table below maps the (diagram above) prospective investor types to the key concerns of ASIC (as articulated in Joseph Longo's Foreword to the broader document).

1. On the topic of opacity, this is taken to exclude valuation considerations (given this is addressed at risk three), but instead the ability to 'look-through' to the underlying assets. In a Fund of One format, this is easier to undertake (as the direct exposures are evident), however, in a comingled Fund format (used by retail investors/ and super funds), this becomes more difficult, and when part of a multi-asset solution even more difficult to get visibility. It is also noted that most (retail and super fund) investors don't need to understand idiosyncratic risk

exposures, or contributions to risk budgeting, however, I think it is important to ensure that the Portfolio Manager's exercise prudence in respect of size positioning (as they would for traditional public market asset class exposures).

2. In respect 'conflicts', it is noted that (in Australia) we've not seen the 'creditor violence' evident in the US in respect of private debt. For example, the switch of assets between legal entities, or the downward subordination of existing investors via the insertion of more senior debt into the capital stack. The insistence on investor covenants is the key-way of ensuring this 'creditor violence' doesn't happen locally. Underpinning this is the need for a strong regulatory regime with court enforceability as key.

   Related, conflict in the context of ASIC"s observations can also be taken to mean between the plan sponsor/originators and their investor clients. This could for example manifest with differing valuation treatments for the same asset into different fund vehicles. The principle of one asset one price should apply across the Board (and notwithstanding the operation of a pricing waterfall mechanism – the same asset should not have differing treatment). Additionally, we (Zurich) have managed this risk by insisting our external asset manager's are coinvested alongside ourselves. This also precludes assets being 'swapped' between different portfolios on the proviso of creating liquidity. This is also in-part addressed by ensuring a rigorous and well-documented valuation process, thereby ensuring equal treatment for the buyer and seller.

3. In respect of valuation uncertainty, this should be addressed (via a written description/and policy documentation) at the inception of the investment. For private debt for example, the valuation method could be for example a) floating rate with a fixed spread to ACGB (Australian Commonwealth Government Bonds), or BBSW (bank bill swap rates), or cash rates; b) fixed rate, or c) amortizing over the maturity of the exposure to par value.

   Where a change in fundamentals necessitates a downgrade, or discounting of par value (reflecting a higher coupon/ and higher risk), again, this process should be well documented. In respect of private equity, again, similar logic would apply, with valuations based on some accounting metric such as multiple of EBITDA (earning pre interest, tax, depreciation and amortization), or book value per issued capital et al. Again, fully documented ahead of time

   In order to provide independence to the valuation process, in the same manner that there are SAS70/ ISOC internal control assessments provided by third parties, a similar review chould be undertaken in respect of the valuation process applied for private assets. This will add objectivity to the process of valuation and help ensure confidence that valuations are correctly applied.

   Lastly, it is noted that there is not yet the emergence of a secondary market for private debt and private equity in Australia as there is in Europe, and the US. This is a vital mechanism for both the provision of liquidity, and as a valuation check. Activities to encourage the development of a 'secondaries' market should be adopted as part of the development of these markets in Australia.

4. On illiquidity, it is noted insurers are subjected to considerable assessments around the liquidity of their investment portfolios, with stress testing of 1 in 100 style scenarios, Expected Shortfall calculations, and zeroising some asset classes to ensure there are sufficient liquid asset buffers to pay claims. Accordingly, insurers generally view these (private) asset classes as completely illiquid in stress scenarios, and consequently adopt HTM (hold to maturity) style approaches ie investment proceeds unavailable til maturity. In this regard, insurers are fully cognizant they are being rewarded for the illiquidity premia, and effectively don't need these assets for day to day liquidity.

   In the context of superannuation, whilst the liability mindset is similar (to insurers) in respect of long dated assets backing long dated retirement liabilities, there should be a similar liquidity consideration around what percentage of assets should be permissible in the context of needing to fund retirement solutions over a 12-24mth time frame, in the context of expected monthly cash inflow over the same time period (ie cash inflow plus coupons and maturities funding cash outflow) without the need to touch illiquid assets.

   Domestic and retail investors have a lower tolerance for illiquidity (as especially when private assets are comingled into multi-asset solutions) where a daily priced NAV' (Net Asset Value) may well reflect daily priced illiquid assets (if for argument sake private assets are priced at 350bps over 5yr ACGBs), however, this is illusionary, since the ability to actually sell an exposure (without the operating of gating mechanism) is highly improbable. In this context, consideration from a Fund design perspective needs to be given to what size allocation could reasonably be given to illiquid assets without distorting or creating 'last man standing' issues.

   I had a practical example of this in the UK, where we ran a retail OEIC (UCITS equivalent open ended investment company) Fund of direct commercial property. This Fund had been gated previously (during the Brexit vote of 2016), and we ran cash buffers equivalent to 6mths of normal redemptions to avoid asset fire sales, or further lock-up periods. Notwithstanding, during the 2018 period, despite running high cash buffers, our Fund was again gated because valuation agents were no longer comfortable valuing direct commercial property assets. This outcome may have been understandable to stand alone property investors, but in-turn led to concerns regarding multi-asset funds, that had a percentage of assets effectively using stale prices. This same logic extends very easily to private debt and equity – hence careful consideration to the absolute exposure within the context of multi-asset solutions needs to be applied.

5. Lastly leverage, which often ranges between 2 and 5 times for private debt (Broadly syndicated loans and Mid-Market Loans at the higher end). This is reflective in respect of implied credit ratings, and in-turn the spread required for taking on the risk. I don't therefore see this as a significant issue for the sector. In reality the same issue is faced for public debt markets. Lower gearing is lower risk, is lower credit rating, and lower spread.

ASIC Concerns	SWF	Foreign Investors	Domestic Retail Investors	Domestic Institutional Investors	Super Funds	Domestic Insurers
1. Opacity (as a concern)	Low	Low	Medium	Low/Med (depending on whether co-mingled fund access)	Medium	Low (with look through treatment)
2. Conflicts	Low	Low	Medium via comingled exposure	Low/Medium (like insurers albeit with 3rd party assets)	Medium via comingled exposure	Lower since a) own assets, and b) with enforceable loan covenants
3. Valuation uncertainty Valn Frequency			Inconsistent within multi-asset soln with the need for daily NAV	Less concerning if as standalone soln, not part of multi-asset	Same comments	Multiple other assets valued with a lag ie direct real estate, PE, HF et al
4. Illiquidity (tolerance)	High	High	Low, as 'gating' a key issue	Low, as 'gating' a key issue	Medium; with gating an issue, & absolute % size of illiquid exposure more concerning	High, sufficient other liquid assets to pay claims
5. Leverage			Similar issue for public markets but potentially higher gearing for BB/B rated issuers	Same as Retail	Less concerning	Less concerning

3. In what ways are public and private markets likely to converge?

Unconvinced that these markets will converge. Listed public markets have their own requirements around listing rules/ regulations, frequency of reporting, and continuous disclosure requirements. Private markets on the other hand, are less bound by these 'public market' requirements, and have more idiosyncratic obligations (ie loan covenants, and other debt centric measures). Ease of access to public markets is also a key differentiator between the two, and this is unlikely to materially change.

To illustrate this observation, one of the initial motivators for our European business securing exposure (to private debt) from 2014 onwards was that many central banks adopted Quantitative Easing (QE) programs, which included significant public asset purchase programs (for govt bonds, credit and equities). Arguably this led to indiscriminate buying, as these Central Banks and monetary authorities (such as the ECB, BOE, BOJ, Federal Reserve et al) held little regard for traditional valuation or fundamentals, and instead, focused on accessing as much supply as possible. In turn, this 'crowding out' of traditional investors (such as real money managers, and insurers) led to a focus into the private markets, where capital raising was more bespoke/ less fungible, and importantly, out of scope for the QE buying programs. More recently, competition for assets has eroded some of this earlier observed 'illiquidity premia', but at the end of the day, this is reflective of well-functioning market, with risk priced appropriately.

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

The key regulatory focus I think is two fold – one from an insurance perspective (APRA), where we have our own liquidity stress tests, but are discouraged with onerous capital treatment for non-rated or sub-IG assets (which are typically the domain of private markets).

The second aspect, which is more ASIC centric is geared towards the Industry Super Funds; where there should be (in similarity with the insurers) a test of liquidity under stressed market conditions. Liquidity should be deemed to include the net of regular cashflow (the net of in and out) plus sovereign bonds and domestic equities (including A-REITs), but excluding public credit, real estate (direct), hedge funds and private equity. This modified asset base is then mapped back to the average daily outflow for 12mth period, to give a sense as to what degree of exposure is appropriate. It is also worth bearing in mind, that there should be some consideration as to the level of duration for the private assets; short term, up to five years, or beyond five years – this a better more generalized guide to the likelihood of capital repayment at maturity (than a more bespoke issue by issuer approach to default probability for example) ie not overly onerous in calculation methodology.

Healthy public equity markets

5. What would make public markets in Australia more attractive to entities seeking to raise capital or access liquidity for investors while maintaining appropriate investor protections?

Public markets are already reasonably attractive, especially for larger public entities. At the margin here are discussions around smaller/ medium sized entities (EBITDA of circa $50-$100m pa) – that perhaps lack the internal infrastructure for managing either an equity issuance, or a debt capital raising (and the commensurate disclosure obligations) for a listed entity.

For these entities, the size might make them too large for single bank loan exposure, but arguably too small for a market digestible debt issuance/ medium term note (MTN) program. The middle ground here is where the role of private markets competes to allocate capital on risk adjusted basis, and I don't think it makes sense to try forcing an institutional solution (ie debt capital or equity capital issuance) onto companies which are sub public market scale.

6. Do you agree that a sustained decline in the number, size or sectoral spread of listed entities would negatively impact the Australian economy? If so, can you suggest ways to mitigate any adverse effects that may arise from such changes?

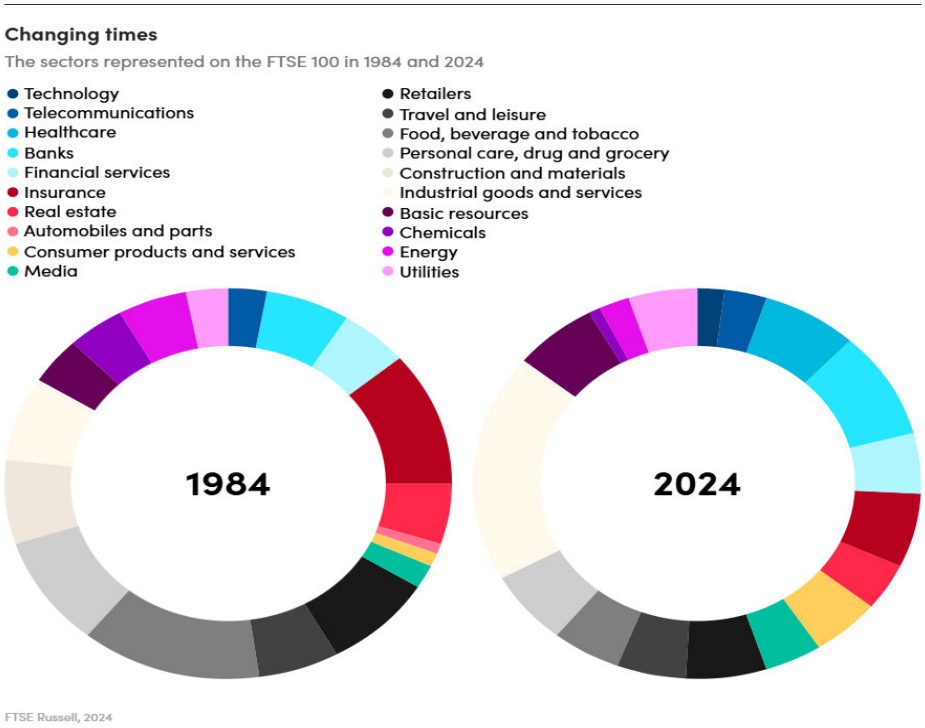
If there is simply a substitution of public for private markets, then net net it would be hard to justify how Australia could be negatively impacted, so no, I don't agree with this contention. Another useful illustration is the UK's FTSE index, which has dramatically changed size/ scope and sector exposures over the past 4 decades [as outlined below in chart form from FTSE Russell]. This doesn't not appear to have dampened the enthusiasm for domestic UK pension funds and OEIC' [Open Ended Investment Company aka collective investment schemes].

If you are talking about foreign investor access to Australian assets, then yes, the contention is probably correct, that a switch from public to private would by definition lessen the degree of

exposure (given these private deals are more bespoke, and require access to information which is non-public, as opposed to listed equities for which due diligence is easier given the depth of market insight/ and disclosure).

That being said, a switch from public to private could also facilitate a greater degree of outsourced investment mandates to locally domiciled asset management firms, which net net, is also a positive benefit (again contrasting with someone sitting in an office in New York buying say BHP equity).

The development of a secondaries market could also facilitate a wider array of market participation.



Source: FTSE Russell and FTSE 100: 40 years of ups and downs at the top of British business - Raconteur

7. To what extent is any greater expectations of public companies, compared to private companies, the result of Australian regulatory settings or the product of public scrutiny and community expectations of these companies?

I think we should carve out expectations around the social license that companies have to operate. The primary role of any entity is to generate a rate of return on assets (irrespective of whether debt or equity funded), and then secondly, the creation of products and services useful for consumers/customers, charging an appropriate price, creating a safe environment in respect of labour standards, and with reference to a given set of laws and regulations specific to the industry. Let's not confuse the issue here with social license and community expectations which are non-quantified and subject to populism and changing yardsticks over time.

Private market risks and market efficiency and confidence

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?

From an insurer perspective, as outlined earlier, the current APRA regulatory regime is punitive in respect of capital treatment for private assets, particularly infrastructure. From the unrated nature of private debt, to penalties on duration, the regime is not well calibrated to support private markets, nor fits with the other regulatory standards in respect of ensuring that assets are sufficiently liquid for risk management.

From an ASIC perspective, greater oversight in respect Industry Super Fund illiquid exposure feels warranted. The paper from Dr Carole Comerton-Forde[1] Figure 30 depicts some significant illiquid exposures for just two of the Industry Super Funds. If these numbers are indicative of the wider cohort of > A$100bil size Industry Funds, then here is the systemic risk ASIC seeks to avoid. Liquidity stress tests (like which APRA undertakes for insurers) would be the first way to start managing these exposures to more sensible levels.

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.

ASIC should be focused on ensuring how scheme operators (and specifically here the larger Industry Superannuation Funds) are managing their exposure across the lens of a) liquidity (and ensuring absolute exposure is prudent), and b) ensuring policies on asset valuation are well detailed and articulated to ensure full transparency. This includes the idea of one price per security firm-wide, as well as following normal market pricing practices.

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?

Private assets are typically of lower quality (ie lower implied credit ratings) and have commensurately higher yields to compensate. It doesn't make sense to decompose yield into spread, illiquidity premia, and idiosyncratic risk. Long story made short, higher returns are reflected for higher risk.

Again, ASIC shouldn't be dictating what level of exposure is appropriate, but putting some boundaries around degree or size of absolute exposure, as well as duration et al. These guard rails can then help to guide local investment strategy (whether that is for Industry Super Funds, or retail open ended investment funds).

Retail investor participation in private markets

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

[1] Evaluating the state of the Australian public equity market; Evidence from data and academic literature Feb 2025 prepared by Dr Carole Comerton-Forde, and Charles Lane Advisory Pty Limited.

No comments here.

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

Potentially wider source of investable capital, and from an investor perspective, access to diversification, and deal flow which is normally the domain of institutional investment managers.

13. Do current financial services laws provide sufficient protections for retail investors investing in private assets (for example, general licensee obligations, design and distribution obligations, disclosure obligations, prohibitions *against misleading or deceptive conduct, and superannuation trustee obligations)?*

Unable to comment on the above.

Transparency and monitoring of the financial system

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?

Investors is private debt should be able to quantify their pricing basis; for example discounted present value (PV) at inception and amortization to par at maturity; or xx basis points over the 10yr ACGB (Australian Commonwealth Government Bonds) yield, or floating rate spread of xx basis points over cash rate.

Impairments are then on the basis of missing loan covenant triggers, or the demand for compensatory debt payments to cover, which in turn impact the discount to Par value. Whilst communication of the pricing policy is not needed in the context of an insurer's own assets, it would be helpful for collective investment schemes/ public investment strategies, so prospective investors have some understanding of how illiquid assets are to be valued during periods of market stress.

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?

Market integrity in many respects is self-deterministic / self-regulating. If for example an issuer breaches loan covenants, then there is legal remedy for the various creditors following a reasonably proscriptive remedial process. Treatment of underlying investors (in for example public offer products) however needs a little more care/ attention – specifically, as to how defaulting or illiquid issues should be addressed in the context of redemptions or withdrawals.

Should for example a 5% allocation to illiquid assets be treated as a separate pool, with the attendant coupons (and perhaps maturities) flowing across to the main portfolio (of 95%) – in which case 100% of NAV (net asset value) would be achieved with the product provider effectively guaranteeing the 5% with their own cash/ and the product provider effectively providing that liquidity of an otherwise illiquid exposure?