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Via Email: markets.consultation@asic.gov.au

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Australia’s evolving capital markets

Thank you for the opportunity to provide feedback on ASIC’s February 2025 Discussion Paper, *Australia’s evolving capital markets: A discussion paper on the dynamics between public and private markets*.

Australian Retirement Trust (ART) welcomes the opportunity to engage with ASIC on initiatives that promote the ongoing stability and confidence in Australia’s superannuation industry. As one of the country’s largest superannuation funds, ART recognises the critical role that strong, transparent, and well-regulated financial markets play in supporting member outcomes.

A deep and liquid public market is essential for large institutional investors such as ART. It enables effective domestic diversification, supports efficient portfolio construction, and forms a vital part of our liquid investment strategy – all of which contribute to delivering strong, long-term returns for our members.

At the same time, ART seeks to access the broadest possible opportunity set, both domestically and internationally, to meet our investment objectives. Unlisted assets play a key role in this context, offering diversification, enhanced return potential, and long-term investment alignment with the needs of our members. As such, ART is pleased to contribute to the discussion on these important matters.

In the sections below, ART has provided responses to the pertinent areas raised in ASIC’s consultation. Our perspective is informed by our experience as an APRA-regulated superannuation fund, operating within a well-established regulatory framework that already provides strong protections for members. We believe that this framework – particularly through Prudential Standards such as SPS 530 and SPS 231/CPS 230 – ensures robust governance, risk management, and accountability.

While we acknowledge the importance of regulatory oversight across all parts of the financial system, we note that APRA-regulated funds are already subject to comprehensive regulation. As such, any additional oversight should be carefully targeted to address potential gaps in other parts of the market, rather than duplicating obligations for superannuation funds operating under APRA’s established framework.

We would welcome the opportunity to discuss our feedback directly with ASIC. [redacted], Senior Manager Policy and Government Relations is the primary Australian Retirement Trust contact regarding our submission and can be contacted at [redacted]@art.com.au.

Yours sincerely,

[redacted]
Chief Investment Officer
Australian Retirement Trust

Discussion Questions - Australian Retirement Trust responses

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.
2. Do you have any additional insights into the attraction of private markets as an issuer or an investor?
3. In what ways are public and private markets likely to converge?
4. What developments in public or private markets require regulatory focus in Australia in the future?

1. What key impacts have global market developments had on Australian capital markets?

Australia is a small, advanced open economy with open capital markets. As such, global economic and financial market developments have material impacts on the local economy and capital markets.

1. *Integration of Australia's financial markets into global capital markets:*
   Via an open capital account, Australia has allowed free movement of capital across borders since the late 1970s and early 1980s. This openness integrated Australia's financial markets with global capital markets and facilitated significant foreign investment in Australian markets and vice versa. Increased cross-border investments and capital flows have also made Australian markets more sensitive to global economic conditions and impacted on our domestic financial stability.

   Whilst not large compared to equivalent markets in the US or Europe, trading activity in many domestic financial market sectors across equities, debt and FX securities is higher than the size of the economy might indicate. For example, the Australian dollar is the fifth[1] most actively traded currency globally, while Australia's pool of accumulated superannuation savings is currently:
   a. the world's fourth largest[2];
   b. the fastest growing among the largest national savings pools globally[2];
   c. 2.4 times larger than Australia's nominal GDP as at December 2024[3]; and
   d. 1.3 times larger than the market capitalisation of Australian companies listed on the ASX[4].

2. *Global financial conditions:*
   Many Australian companies are listed on international stock exchanges, and Australian investors hold significant foreign investments across all asset classes which enhances market liquidity and provides diversification opportunities.

   As such, global market developments influence Australian financial conditions, including the implementation of monetary policies of major central banks, trends in global bond and funding markets, and international investor sentiment. These factors in turn affect domestic interest rates, exchange rates, and asset prices.

3. *Financial innovation:*
   Global financial innovation has had a material impact on Australia's capital markets over the past few decades, driving significant changes in market structure, efficiency, and accessibility.

   Innovations such as Exchange-Traded Funds, derivatives, structured products and listed private offerings have provided investors with more options for diversification and risk management, and

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[1] Triennial Central Bank Survey of foreign exchange and over-the-counter (OTC) derivatives (https://www.bis.org/statistics/rpfx22.htm) accessed April 2025

[2] Australians' super savings on track to become second largest globally by the early 2030s | SMC Australia

[3] Australian National Accounts: National Income, Expenditure and Product (www.abs.gov.au)

[4] Market Statistics (Market Statistics (ASX): PE, Earnings & Yield - Market Index)

improved market liquidity and accessibility, both for local investors and overseas investors into Australia. The adoption of electronic trading platforms and algorithmic trading has transformed the way markets operate. These technologies have improved market efficiency, reduced transaction costs, and increased the speed of trading.

Innovations in impact investing and sustainable finance are further examples of developments in global debt and equity capital markets that have influenced Australia's financial markets landscape.

This innovation has naturally prompted regulatory responses to ensure market stability and investor protection. Regulations have evolved to address the complexities introduced by new financial products and technologies.

4. *Financial regulation:*
   The introduction of new regulations and reforms, both domestically and internationally, has shaped the structure and functioning of Australian capital markets. These changes aim to enhance market stability, transparency, and investor protection.

   For example, Australia has aligned its financial regulations with international standards set by the International Organization of Securities Commissions (IOSCO) and the Basel Committee on Banking Supervision. This has enhanced the transparency, stability, and attractiveness of Australian markets to global investors (and vice versa). This has also facilitated cross-border collaboration and information sharing, aligning our regulatory framework with best practices.

   International regulations have driven improvements in local market infrastructure, including the adoption of advanced trading technologies and clearing and settlement systems, which have increased market efficiency and reduced systemic risks.

5. *Emergence of China and other emerging markets:*
   Emerging markets (EMs) have risen in global importance since China's ascension to the World Trade Organisation (WTO) in 2001. EMs are expected to continue to play a crucial role in shaping the global economy, with S&P Global[5] estimating they will contribute about 65% of global economic growth by 2035. Countries like China, India, Vietnam, and the Philippines are projected to be significant drivers of this growth in the years ahead.

   The emergence of China has had a material impact on Australia's capital markets. China's rapid economic growth and its increasing role in global trade have had significant implications for Australia's commodities sector, particularly coal and iron ore. The demand for these resources have a significant impact on the Australian economy and its capital markets and has been a major driver of Australian government revenues, economic growth and capital market performance and integration.

   Australia's economic ties with China have prompted closer regulatory coordination. For example, the China-Australia Free Trade Agreement (ChAFTA) has facilitated smoother trade and investment flows between the countries. Chinese investment in Australia has also grown substantially, particularly in sectors like real estate, agriculture, and infrastructure. This has supported economic growth and development, influencing both debt and equity markets.

6. *Technological advancements:*
   Innovations in technology, both at home and abroad, such as electronic trading and financial software, have transformed trading practices, increased market efficiency and reduced trading

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[5] 'Emerging Markets: A Decisive Decade', October 2024 https://www.spglobal.com/en/research-insights (access April 2025)

costs. These advancements have also facilitated greater participation in Australian markets by international investors.

The advent of online trading platforms has democratised access to financial markets. Individual investors can now trade securities from anywhere with an internet connection, increasing market participation and competition. Financial technology (fintech) innovations, such as robo-advisors, digital wallets, and blockchain technology, including the tokenisation of private assets that have allowed partial ownership of such assets leading to greater democratisation, have reshaped investment and payment processes, and have made financial services more accessible, efficient, and secure.

The use of data analytics and artificial intelligence (AI) in financial markets has enhanced decision-making and risk management. These technologies provide insights into market trends, investor behaviour, and potential risks, enabling more informed investment strategies

7. *Financial crises:*
   Events like the 1987 stock market crash, the 1997 Asian financial crisis, the deflating of the Dot-com bubble in the early 2000s, the 2008 global financial crisis and the COVID-19 Pandemic in 2020 have all materially impacted Australian capital markets. These crises led to increased volatility, changes in regulatory frameworks, and shifts in investor behaviour.

   Financial crises tend to prompt regulatory reforms worldwide and underscore the importance of robust yet flexible regulatory frameworks, effective risk management and the need for coordinated global policy responses to mitigate the impact of financial shocks on savings, capital markets and the functioning of the economy more broadly.

What key impacts do you anticipate in the future? Please provide examples from your experience.

Australia's debt and equity capital markets are expected to remain globally integrated, with regulatory bodies continuing to work alongside global counterparts to ensure open, accessible, transparent, efficient, and innovative markets. Australia's monetary policy settings and funding and exchange rate markets will continue to be influenced by global capital market trends.

From ART's experience, Australia's retirement savings pool is expected to outgrow the domestic economy, leading super funds to increase investments in foreign public and private assets. These foreign assets will provide sectoral and geographic diversification and risk mitigation for Australian superannuation portfolios.

The current US international trade policies and higher global protectionist measures are expected to negatively impact global growth and inflation dynamics in the short to medium term. Reduced global trade will likely have a net negative impact on Australia's economy highly exposed to international trade of goods and services and movement of global capital. Certain sectors of the Australian economy such as mining and agriculture are likely to be most impacted by the current 'tariff war'. The duration of these higher barriers and potential countermeasures remain uncertain.

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

ART has been a long-term investor in the private markets asset classes, having first invested in the mid 1990's. The reasons for ART's investments into private markets is outlined below:

1. *Diversification from listed markets*
   Investing into private markets enhances the quality of ART's portfolios in terms of diversification, return and/or risk characteristics. By providing an alternative return source with differentiated risk/return characteristics, unlisted assets increase diversification and reduce overall portfolio risk as the assets can be relatively uncorrelated to business cycles. By responding differently to fluctuating market conditions, this diversification through market cycles can result in enhanced return stability and portfolio quality.

2. *Reduced volatility enhancing risk-adjusted returns*
   By often being less exposed to the business cycle, private markets typically exhibit lower volatility compared to public markets. Also, with private markets assets being periodically valued, valuations usually more accurately reflect revenue expectations (such as rental incomes under long-term leases), operational conditions and income streams, and don't react as significantly to unrelated factors that can impact public markets positively or negatively.

   Given the reduced overall volatility, private markets investments contribute to enhancing portfolio risk/return metrics. Many unlisted assets are positioned between fixed interest investments and listed shares on the risk/return curve, allowing additional return to be generated for the level of risk taken.
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3. *Increased control over portfolio construction and sector focus*
   Investing into private markets enhances ART's ability to influence portfolio construction, not being so heavily reliant upon the composition of public market indices. This control allows ART to take material positions in high conviction sectors or thematics, with the intention of outperforming markets. As a fiduciary of our members money, we are engaged to deliver the best risk adjusted returns for our members, and investing into high conviction sectors assists in facilitating this objective.

4. *Wider investment universe*
   Many early stage companies are not suitable for public markets. Private capital plays a significant role in incubating companies today that will be the public markets companies of tomorrow. These companies need the private markets capital in order to be successful. Investing into private markets widens the investment universe, providing differentiated revenue streams and enhancing ART's ability to deliver superior risk-adjusted returns to our members.

5. *Capital structure flexibility*
   Private markets investments afford increased flexibility to design capital structures that are optimised for the asset as opposed to meeting public market norms. Furthermore, they provide optionality for ART to invest into different parts of the capital structure, such as preferred equity or warrants, which can limit downside risk and provide significant upside optionality.

6. *Long-term investment horizon focussed on total returns*
   In line with the long-term investment horizon of superannuation funds and its members retirement objectives, ART typically takes a long-term investment view for private market assets. This investment horizon will vary on the underlying private markets asset class - Private Equity and Private Debt tend to be shorter holds while Real Estate and Infrastructure are longer term holds. It is not uncommon for ART to hold its assets for more than 10 years.

   This long-term approach also allows ART to focus on total returns and long-term value creation as opposed to satisfying public market expectations on yield. Consequently, yield can be forgone to make development decisions that will improve the long-term value of private market assets. Public market boards, in contrast, can be more likely to make shorter-term decisions (eg to maintain dividends) which can adversely impact longer-term value creation.

7. *Improved governance and ability to influence investments*
   ART has limited ability to influence the strategic direction of public market investments and significant decisions they may make eg large acquisitions. However, private market assets often confer a significant level of control or influence over key decisions with regards to the underlying assets. This may include the ability to appoint directors to the board, and the ability to influence the strategic direction of the assets. This can ensure alignment with ART's investment philosophy and ability to drive additional returns through taking a longer-term view (as noted above).

8. *Stronger alignment between boards, management teams and shareholders*
   Investing into private markets can result in stronger alignment between boards, management teams and shareholders. With the ability to decide who we invest alongside, and influence over board composition, this permits ART to work with aligned sources of capital who are also focused on taking a long-term position to deliver superior total returns. Incentives are also used to focus management on long-term investor growth and total return maximisation.

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

We expect investor demand for private markets assets to remain strong given large superannuation funds' continued pursuit of sources of diversification without sacrificing returns to meet member investment objectives. In addition, the retail market continues to increase its exposure to private markets. As these private markets continue to grow, we are likely to see some convergence to the sorts of characteristics observed in public markets.

1. *Data*
   Continued growth in deal flow and reporting of asset level financials and investment vehicles will lead to improvements in the type of data collected and the frequency with which they are disseminated and reported leading to improved price discovery among private assets. This should extend to more frequent asset value markings.

   Also, as cycles for private assets mature and evolve alongside economic fundamentals, we are likely to see investment managers gather more experience in underwriting, managing, reporting and exiting assets which should also lead to more robust data and reporting over time.

2. *Regulation*
   We expect regulators to continue to require greater insight into private asset fund holdings, including for private capital investment vehicles and funds as the appetite for private assets continues to grow. It may also be the case that regulatory oversight is stepped up by APRA to require funds to demonstrate the ability to undertake more extensive and deeper ODD and IDD on private assets and the funds and vehicles in which they sit.

3. *Access*
   Despite greater regulatory scrutiny of private assets to safeguard less sophisticated investors and superannuation fund members' account balances, we are likely to continue to see greater access to private assets, potentially via ETFs or other unitised products or accounts. In the UK, for example, platforms like PISCES are being developed to match private companies with investors, offering regulated disclosure requirements similar to public markets[6]. In Europe, evolving regulations and the development of platforms for private market investments are making it easier to integrate public and private markets[7].

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[6] UK public and private capital markets – A unified strategy for growth and prosperity | Insights | UK Finance

[7] How the Convergence of Public and Private Markets Is Reshaping Investing - Future Proof

There is also likely to be greater opportunities for more businesses, particularly those in the early growth stages and in certain sectors and regions of the economy, to secure the funding they need to grow. Addressing these challenges will require collaboration across government, regulators, and industry to create a more inclusive funding landscape.

4. *Education*

   Investors will likely require greater education on the nature of illiquid investments and their role in multi-asset portfolios if access to private assets grows quickly and expands to retail investors. Finance education institutions such as CFA and CAIA are better integrating private asset theory and management into their syllabuses[8].

5. *Transparency*

   Improved data collection and reporting, in part due to technological innovations, and longer time series of returns and other financial metrics pertaining to assets and the vehicles in which they are held is likely to lead to greater transparency with respect to holdings, activities, exposures and costs of private funds and assets. In the US for example, large financial institutions such as BlackRock, KKR, Capital Group and Apollo Global Management are integrating public and private markets into hybrid models and providing investors with greater accessibility and transparency to integrate private assets into their portfolios.

   Further, research by the likes of Edhec's Scientific Infra and Private Assets and PIMCO has investigated ways in which existing, representative public market proxies can be appropriately adjusted to better reflect the investments of private asset funds and managers so these adjusted series can be used to better benchmark asset classes. This could potentially lead to greater transparency of how private assets and funds are performing, improve asset class benchmarking as well as provide greater insights into what role private assets play in portfolio construction and asset allocation to achieve member outcomes for large super funds. Another extension of this might be the ability for investors to better 'map' private asset characteristics to traditional market factors such as duration, equity, inflation and real rates. Combining public and private market factors together would enable a more robust, holistic total portfolio approach to asset allocation and portfolio management.

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

The following developments in Australia's public and private markets have been gaining attention as potential areas for increased regulatory focus:

- the declining strength of public markets;
- the tokenisation of private markets;
- integration of digital assets;
- the rapid growth of private markets; and
- the growing size of the superannuation system.

In our view, it is the first three areas which would require continued regulatory focus. We feel that a large, liquid and orderly public market is a critical enabler of Australian economic growth. In addition, tokenisation of private markets and digital assets need to be considered carefully as retail investors are generally far less aware of the underlying assets and structures in these arrangements. The other areas are less of a concern from our perspective as most private market investors are large investors who undertake detailed due diligence, and the size of the Australian superannuation system is a major benefit to the Australian market and already has significant regulatory oversight.

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[8] January 2025: Next Is Here - Private and Public Market Convergence | Chronicles of an Allocator | CAIA

In addition, any decision to take regulatory action to mitigate potential risks arising out of the abovementioned developments should take into consideration the need to preserve innovation and economic growth in Australia. In addition, the circumstances applicable to the different market participants should also be taken into consideration when considering the extent to which increased regulatory scrutiny is necessary.

APRA-regulated superannuation funds operate under a comprehensive investment governance framework established under *Prudential Standard SPS 530 – Investment Governance*, together with *Prudential Standards SPS 510 – Governance and SPS 231 – Outsourcing* (which is set to be replaced on 1 July 2025 by *Prudential Standard CPS 230 – Operational Risk Management*, providing even more robust requirements relating to operational risk management, service provider risk management and business continuity planning). The investment governance framework ensures that RSE Licensees, consistent with their obligations to act in the best financial interests of beneficiaries, prudently select, manage and monitor investments on behalf of beneficiaries by:

- formulating specific and measurable investment objectives for each investment option;
- developing, maintaining and implementing effective due diligence processes for the selection of investments;
- determining appropriate measures to monitor and assess the performance of investments on an ongoing basis;
- developing, maintaining and implementing a comprehensive investment stress testing program;
- formulating a liquidity management plan; and
- developing, maintaining and implementing an effective valuation governance framework.

APRA regularly reviews the investment governance framework to ensure that it continues to achieve its purpose in changing market conditions, as evidenced by the recent updates to SPS 530 (enhancing requirements for valuations and liquidity management) and the implementation of CPS 230 (enhancing requirements for operational risk management, service provider risk management and business continuity planning).

Regulatory scrutiny by ASIC could result in additional complexity and compliance costs for superannuation funds that will need to comply with similar obligations imposed by different regulators. Separately, increased regulatory focus in general can potentially create a more restrictive economic environment, affecting the competitiveness of superannuation funds and reducing long-term returns to members.

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?
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?
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?

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?

For total portfolio investors such as ART and other superannuation funds, maintaining the ability to efficiently allocate across asset classes remains vital to our ability to deliver on our investment objectives and members' retirement outcomes.

A well-functioning public equity market comprised of large, diverse, high-quality and growing companies is critical to support the growing pool of Australian retirement savings. This includes key features such as market depth, liquidity and strong investor protections.

Attractiveness of Australian public equity

To the extent practicable, ART supports a level playing field between public and private asset classes while taking into account the necessary differences between asset classes that make them each attractive to investors.

It is our observation that Australia is an attractive option for companies considering listing in public markets within a number of industries, such as mining, not the least due to a better understanding and depth of industry expertise amongst investors and analysts. It is important to recognise and maintain Australia's competitive advantage in these areas.

Some specific considerations on how the ASX can make itself more attractive to a broader base of companies, thereby improving diversity, depth and liquidity of the market, are as follows:

- *Listing cost:* The initial listing fee on the ASX[9]is calculated based on market cap, ranging from A$146,585 for a company with a market cap of $50 million, to just over A$1 million for a company with a market cap of $2 billion, to A$8.3 million for a company with a market cap of $20 billion. In comparison, the NYSE and NASDAQ have a flat listing fee of US$325,000[10](c. A$510,000 as of 15 April 2025) and US$295,000[11](c. A$463,000 as of 15 April 2025) respectively. The NYSE and NASDAQ provide companies with access to a larger pool of capital with significantly lower listing fees. Lowering and capping the listing fee to match similar developed market exchanges could represent one less hurdle for companies to consider listing in Australia.

- *Create dual pathways*: Differentiated listing requirements and compliance tiers based on whether a company qualifies for inclusion in the ASX 300 could be created to encourage small companies to list and allow appropriate scaling of governance requirements with consideration to the size and

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[9] https://www.asx.com.au/listings/listing-considerations/listing-fees/listing-fee-calculator
[10] https://nyse.wolterskluwer.cloud/listed-company-manual
[11] https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%205900%20Series

maturity of the company. This would be consistent with other international exchanges such as TSX Venture Exchange and LSE Alternative Investment Market.

While enhancing the attractiveness for companies to raise capital in Australian public markets is important, it is equally essential to ensure the attractiveness of Australian public markets to investors. Ensuring strong investor protections, including protecting shareholders' rights is critical to achieve this.

The recent case study of James Hardie's $14 billion acquisition of US decking group Azek and shifting the 136-year-old company's primary listing to the New York Stock Exchange, without requiring a shareholder vote, has highlighted areas for improvement in the ASX Listing Rules around shareholders' rights.

Within its regulatory capacity, ASIC could work with the ASX to establish and conduct regular benchmarking exercises relative to global exchanges to ensure it remains competitive at both attracting companies and investors to public markets in Australia.

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?

A sustained decline in number, size and sectorial spread of listed companies would have significant implications from a portfolio construction perspective for total portfolio allocators such as superannuation funds. It is critical that there is a well-functioning public equity market with high-quality, diverse and growing Australian companies.

- Institutional investors continue to allocate a substantial amount of capital to public markets due to their liquidity and diversification benefits. A shrinking public market in Australia may result in investors increasing allocations to offshore public markets, to achieve these liquidity and diversification objectives.
- This may lead to a shrinking funds management industry within Australia, leading to reduced competition, which can drive up costs for both retail and institutional investors. This can also lead to market inefficiency and reduced coverage and industry expertise including in areas where Australia currently has a competitive advantage.
- Trusted, liquid public markets allow capital to readily flow in (and out) of our economy from other economies and assists with effectively marking Australia's cost of capital to that of its large trading partners.
- IPOs are a source of revenue for investment banks, lower IPO activity could impact their revenue and subsequently impact their ability to provide other functions that aid in price setting and liquidity, which are important features of a well-functioning public market.

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?

The higher expectations placed on public companies are due to a mix of regulatory requirements and public scrutiny. Public companies, due to their greater transparency (regulatory reporting requirements) and wider ownership, will understandably attract greater public and media attention. Irrespective of whether a company is public or private, effective corporate governance and informed shareholder oversight are crucial for maintaining a social license to operate and to ensure long-term success and sustainability.

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?
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.
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?

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?

Quite simply, yes. Confidence in private markets in Australia continues to grow as evidenced by the growth in private markets assets under management (AUM) in Australia. Data suggests Australian private markets AUM at 30 June 2024 equated to USD 80 billion, up from USD 55 billion at the end of 2019, presenting a 5-year compound annual growth rate (CAGR) of 8.9% per annum.

Further, private markets capital raising in Oceania[12], the vast majority of which is represented by Australia, has been efficient, broadly following global private markets capital raising trends. Oceanic and global private markets capital raising saw steady increases in fundraising activity from 2009 - 2021, before slowing from 2022 – 2024. Notably, the trailing 3-year aggregate private markets capital raised in Oceania equated to USD 16.5 billion in 2010, rising by ~280% to USD 46.8 billion in 2020, before falling to USD 25.8 billion in 2024 following changes in the broader macroeconomic environment, in particular the interest rate setting.

Therefore, consistent long-term growth in both private markets AUM and fundraising in Australia suggests Australian regulatory settings and oversight have historically been fit for purpose and supportive of a growing private markets industry.

However, a structural shift is underway in private markets globally, including Australia, that may require consideration from a regulatory and oversight context. The number of private markets evergreen fund structures and private markets evergreen AUM is increasing rapidly driven by both investment manager and investor demand. Investment managers are looking to broaden their investor base and take advantage of permanent capital partnerships while certain investors (retail investors, high net worth investors and small institutions) are looking for vehicles to access private markets without needing to meet to large minimum commitments required from traditional closed-end funds, while also seeking an element of liquidity.

Private market participants estimate that today evergreen funds account for approximately 5% of private markets AUM globally (~US$700 billion) and estimate that in 10 years from now, this will increase to 20% of total private markets. Supporting this prediction is the fact that, in 2023, there were 520 evergreen funds globally, double the number from five years earlier. Anecdotal evidence suggest the trend of evergreen fund penetration in Australia is similar. In the last 12 months alone, many large-scale investment managers have publicly announced intentions to raise new private markets evergreen funds in Australia including: EQT, Coller Capital, LGT Capital Partners, Hg Capital, Hamilton Lane, Brookfield / Oaktree, Partners Group, Roc Partners and Pacific Equity Partners.

Whilst we are supportive of innovation in investment structures allowing more investors to access private markets, an inherent mismatch in duration and liquidity exists between liquid / semi-liquid evergreen investment structures and the underlying private markets assets, which are long-term and

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[12] Oceanic counties In order of population include: Australia, Papua New Guinea, New Zealand, Fiji, Solomon Islands, Vanuatu, Samoa, Kiribati, Micronesia, Tonga, Mashall Islands, Palau, Nauru, Tuvalu,

illiquid in nature. This liquidity / duration mismatch gives rise to potential risks that investors should be aware of.

Regulation needs to ensure individual investors are fully informed of these risks allowing the reputation of, and confidence in, the broader private market industry in Australia to remain intact. The key potential risks relate to liquidity management and valuations. These risks are well governed and managed for APRA regulated entities via APRA Prudential Standards SPS 530 and SPS 231 plus additional ad hoc oversight measures undertaken by APRA. Comparable regulation and oversight should be in place for entities that are not regulated by APRA to ensure protections are in place for all market participants allowing for continued confidence in private markets.

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.

As a sophisticated investor, ART has a very strong understanding of the risks associated with investing into private markets assets and has the in-house experience, skills and capabilities to identify and minimise exposure to these risks. We expect most large funds are similar however acknowledge retail investors are unlikely to have the same level of experience or understanding.

When investing into private markets, there is significant overlap with the risks of investing into public markets. The risks we consider to be more prevalent or specific to private markets include the following:

- Diversification – private markets portfolios can be more concentrated than public markets portfolios. Accordingly, ART sizes commitments appropriately and has established portfolio construction guidelines to ensure adequate portfolio diversification
- Liquidity and fund lock-ups – private markets asset classes are less liquid than public markets, often with restrictions on exit for fund commitments and divestment of direct holdings requiring considerable time and expense. ART sizes its commitments to its private markets asset classes having regards to its future funding requirements and continued member inflows
- Key person – key person risk is typically more prevalent for private markets asset classes given many companies are earlier stage or founder led. ART undertakes due diligence on this risk with any new investment and ensures appropriate portfolio diversification to limit exposure
- Regulatory – given reduced liquidity, ART undertakes extensive due diligence understanding the current and future regulatory environment given potential impacts on underlying investments
- Higher risk of loss – earlier stage companies, which are commonly held through private markets, have a higher loss ratio than the more established companies commonly held in public markets. Extensive due diligence, portfolio construction considerations and scaling investments assists in mitigating this risk
- Information transparency – assets held through private markets will have varying levels of information transparency. This is dependent upon the type of private market investment (direct holding vs fund) and governance rights. For material direct holdings, ART can command strong governance and information rights, including ability to appoint directors, access to management, board papers and financial models.
- Valuations – in the absence of public market data to establish valuations (although noting public markets may not reflect fair value), periodic valuations of Private Market need to be undertaken. This can be a time consuming process and is an additional expense to investors in private markets. ART is focussed on robust valuation processes and engages independent valuers to periodically value it's significant unlisted assets. ART also has a Valuation Review Committee to oversee valuation processes and consider out-of-cycle revaluations and has the in-house capabilities to review for reasonableness the independent valuations prepared by valuation experts.

As a sophisticated investor, ART has the in-house capabilities to consider and mitigate these risks and we have not identified any specific risks we believe that ASIC should focus on as a priority. We are not in a position to comment on behalf of a retail investor.

We would also note that there are significant risks for not investing into private markets. From an ART specific perspective, this can increase volatility in member outcomes, decrease overall returns and increase overall levels of risk, adversely impacting ART's ability to meet the return objectives for its members. From a broader market perspective, it can stifle growth in earlier stage Venture Capital or Growth companies, reducing the future number of public market assets.

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?

Correctly structured incentives play a crucial role in managing and mitigating risks within private markets. Incentives help align the interests of private markets investment managers and private markets investors, ensuring that both parties work towards common objectives of growing investment value, while aiding in mitigation of principal-agency risk. Therefore, private markets participants should ensure incentives are correctly structured to align with the risk, return and expected holding period of the investment. This may include, where possible and relevant (acknowledging some of these measures may not be possible under certain asset classes or holding structures):

- Seeking a material component of an investment manager's total remuneration be subject to a performance-based fee where the investment manager only receives a fee once the investor has recovered their original investment principal, plus a hurdle rate of return that is commensurate with the risk of the private markets asset class;
- Payment of performance-based fees be on realised investment value as opposed to unrealised investment value. Where payment is based on unrealised investment value, this unrealised investment valuation should be independently calculated or verified;
- Calculation and payment of performance-based fees based on the aggregate performance of multiple assets (European Waterfall) as opposed to individual assets (American Waterfall); and
- Clawback clauses that require any previously paid performance fees to be repaid to investors in the event the investor does not receive their hurdle rate of return at the end of the life of an investment

Further, investors should desire that the investment manager makes a meaningful commitment to the fund or individual investment to ensure the investment manager has their own capital invested in the fund or individual investment alongside the investor further aligning their interests.

ASIC's RG97 was introduced in 2019 to enhance comparability and transparency in fees and costs disclosure. Further enhancements to the reporting standards relating to investment costs for Superannuation funds proposed by APRA in 2024[13] including (a) the proposal to capture fees and costs at an investment manager level and (b) capture additional data fields to distinguish performance linked costs from other costs, will further enhance transparency into private markets fees and costs to ensure investment manager remuneration is aligned with investor outcomes.

Incentive fee structures in private markets can be complex. Larger institutional investors have resources dedicated to being able to interpret and quantify the impact of incentive fee structures under various scenarios to ensure they are aligned with investor outcomes. However, retail and high net worth investors are unlikely to have equivalent resources. Whilst required RG97 disclosures can

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[13] Enhancement for Superannuation Data Collections consultation response | APRA

be somewhat indicative of incentive fee quantum going forward, it is ultimately a backward-looking measure over a 5-year period.

Therefore, a potential improvement in regulatory settings could be a requirement to include worked incentive fee examples under various future return scenarios in the Product Disclosure Statements (PDS) of private market products, particularly those focussed on retail and high-net worth investors. This would provide investors with further transparency on what incentive fees could equate to under various return scenarios going forward to ensure they align with expected investor outcomes.

Retail investor participation in private markets

11. What is the size of current and likely future exposures of retail investors to private markets?
12. What additional benefits and risks arise from retail investor participation in private markets?
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)?

ART does not have insights to inform responses to these questions.

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?
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?

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?

Superannuation fund members rely on the fund to make investment decisions on their behalf. In this regard, superannuation funds are under a legal obligation to act in the best financial interests of their members.

The existing investment governance framework applicable to APRA-regulated superannuation funds, including the requirements under the *Corporations Act 2001* (Cth) and *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%205900%20Series* for superannuation trustees to disclose portfolio holdings, promotes transparency and disclosure in respect of investments and enables the fund (together with its external investment service providers) to (i) make informed decisions about investments, on behalf of members, and (ii) act in the best financial interest of members.

Requiring superannuation funds to disclose more detailed investment-related information to fund members or publicly could negatively impact funds and their members by (amongst other things):

- increasing reporting costs, which would ultimately be passed down to their members;
- revealing proprietary knowledge relating to specific investments or investment portfolios to competitors, which may (i) reduce competitive advantage for funds and their external investment service providers; (ii) reduce the attractiveness for superannuation funds to invest in certain asset classes, thereby limiting the diversification of investment portfolios and potentially lowering long-term investment returns for members; (iii) deter global fund managers from operating in the Australian market
- conflicting with existing confidentiality obligations between funds and their external investment service providers, as well as between external investment service providers and the underlying investments.

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?

From an APRA regulated superannuation fund perspective, given the comprehensive investment governance framework that is currently in place, we do not believe other tools are necessary.