Australia's evolving capital markets: Opportunities to support Australian listed markets

ASX response to ASIC's discussion paper on the dynamics between public and private markets

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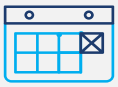
Australia's evolving capital markets: Opportunities to support Australian listed markets

Overview

ASX Limited (**ASX**) welcomes the opportunity to contribute to ASIC's timely and important work examining the evolving dynamics between public and private markets, including by making a submission to the discussion paper *Australia's evolving capital markets* (**Discussion Paper**). Public markets democratise investment opportunities and are the most efficient way to raise and allocate capital. Ensuring that public markets remain an attractive option for companies seeking to raise capital is vital for Australia's economic growth, productivity, market stability, and wealth creation. Australian retail investors may miss out on wealth creation opportunities when companies list on overseas markets or are funded by private capital. Policy settings should not unnecessarily hamper the competitiveness of public markets and should recognise the complementary role of private markets.

Given the increased interconnectedness between public and private markets, Australian retail and institutional investors will benefit from regulatory settings that make listing on a public market attractive, and from appropriate regulatory settings that enhance market stability and transparency in private markets.

Figure 1: Overview of ASX's suggestions to improve the attractiveness of Australia's listed markets

Opportunity	Considerations
Streamlined IPO process	The length of time when retail and institutional investors and companies are at risk before they commence trading is longer than in some other markets.
Dual-class shares	Most major exchanges allow dual-class shares however ASX does not. It is a factor considered by companies – particularly in the technology sector – in choosing a listings venue.
Financial forecasts in prospectuses	There is an expectation that forecasts are provided where there is reasonable basis to do so. Some issuers see this as an impediment to an IPO and would prefer forecasts to be optional.
 Founder/insider selldown plans	The transparent US process for founders to sell down is not permitted under the *Corporations Act 2001 (Cth)* (**Corporations Act**) and is cited as a reason to list on a US exchange.
Foreign Exempt Listings	Reducing the minimum size requirement for the Foreign Exempt Listing category would help attract a greater number of dual listings to ASX.
Reduce free float	The proportion of securities required to be available to be publicly traded, also known as free float, is higher than in other markets.
Corporate bond reform	Regulatory settings are impacting retail investor access to listed corporate bonds, resulting in the Australian listed market being underdeveloped relative to other markets.

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ASX plays a critical role in Australia's capital markets, efficiently facilitating capital formation, maintaining market integrity, and providing retail and institutional investors access to wealth creation opportunities in Australia. Our economy relies on well-functioning public and private markets to allocate capital effectively, and while distinct, the two are complementary and mutually beneficial.

A well-functioning public market enhances liquidity, transparency and investor confidence. It enables broad investor participation and supports transparent price discovery, risk assessment, and return calculations across asset classes, enabling the efficient allocation of capital. Public markets provide valuation benchmarks and a crucial exit mechanism for private capital through M&A, IPOs and reverse takeovers, allowing private capital to recycle capital into new ventures.

ASX's strategy for its listings business is to power long-term economic growth and wealth creation through a world-leading marketplace built on efficiency, transparency and trust. While Australia has an efficient and globally competitive listed public market, ASX is conscious that global peers are adapting to evolving market dynamics, including the UK's most significant reforms in over 30 years to support growth in UK public markets. Other major global listed markets have also evolved, including in their approach of allowing dual-class shares in recent years (discussed further in **section 3.2**) in recognition that listed markets need to be globally competitive and not just domestically attractive.

To stay globally competitive, Australia must evolve. ASX believes that changes can be made to enhance the attractiveness of our listed markets to so that they remain globally competitive and the compelling choice for companies, as well as retail and institutional investors.

1. Current environment for Australia's listed markets

ASIC's Discussion Paper provides a valuable opportunity to consider how Australia's capital markets can best support innovation, investment and long-term economic growth while ensuring appropriate safeguards for investors. As ASIC identifies, the dynamics between public and private markets are shifting. Like ASIC, ASX has been monitoring changes and trends to determine if the changes in Australia's public and private markets are due to structural or cyclical shifts.

ASX agrees with the conclusion in Dr Carole Comerton-Forde's report *Evaluating the state of the Australian public equity market: Evidence from data and academic literature* (**Report 807**) that it is too early to call the current reduction in net listings in Australia a 'structural shift', suggesting it is more cyclical in nature.

ASX continues to offer a compelling value proposition. However, we compete for listings with regional and global exchanges as well as other forms of funding such as venture capital and private equity. Australian retail investors may miss out on wealth creation opportunities when companies list on overseas markets or are funded by private capital.

ASX shares ASIC's view that now is the time to assess how Australia's capital markets can be enhanced. Changes need to be made to Australia's public markets to ensure that they remain competitive. Australia has a globally competitive public capital markets ecosystem, however, markets globally are evolving and Australia must do the same to remain an attractive and efficient market to raise capital.

Benefits of public markets: efficiency, transparency, accessibility and robust regulation

Australia's public listed markets play a critical role in growing the national economy. It provides a structured and transparent platform for companies to raise capital, democratises investment opportunities, and contributes to economic growth. The advantages of a strong public market extend to businesses, retail and institutional investors, and the broader financial system. Australia's public market is recognised globally for its robust regulatory framework, liquidity, and stability, thereby making it an attractive destination for foreign investment. Global investors see ASX as a well-regulated and accessible market, facilitating foreign capital inflows to help drive the growth of Australian companies and the economy.

One of the primary benefits of the public market is its efficient capital-raising mechanism. Companies listing on ASX gain access to a deep and diverse investor pool, allowing them to raise significant funds for expansion, acquisitions, and innovation. Unlike private equity or venture capital, which may impose restrictive terms and conditions, public listings offer companies flexibility in managing capital structure and ownership. Additionally, raising secondary capital (raising capital once a company is listed) is highly efficient in Australia. Listed companies can issue new shares through

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placements, rights issues, or share purchase plans, enabling them to respond quickly to new opportunities or financial needs without excessive regulatory burdens (discussed further below).

Australia's public market also provides significant liquidity for retail and institutional investors and companies. Shareholders can buy and sell shares easily ensuring a market-driven transparent price discovery process. For businesses, liquidity also enhances valuation transparency—public companies are valued in real-time by market forces and investors can measure the value of their holdings on a daily basis.

The regulatory framework governing ASX enables investor protection and market integrity. Listed companies must comply with appropriate disclosure obligations, including financial reporting, the corporate governance standards (on an 'if not, why not' basis), and continuous disclosure rules under both the Corporations Act and ASX Listing Rules. Key benefits of Australia's strong continuous disclosure regime include:

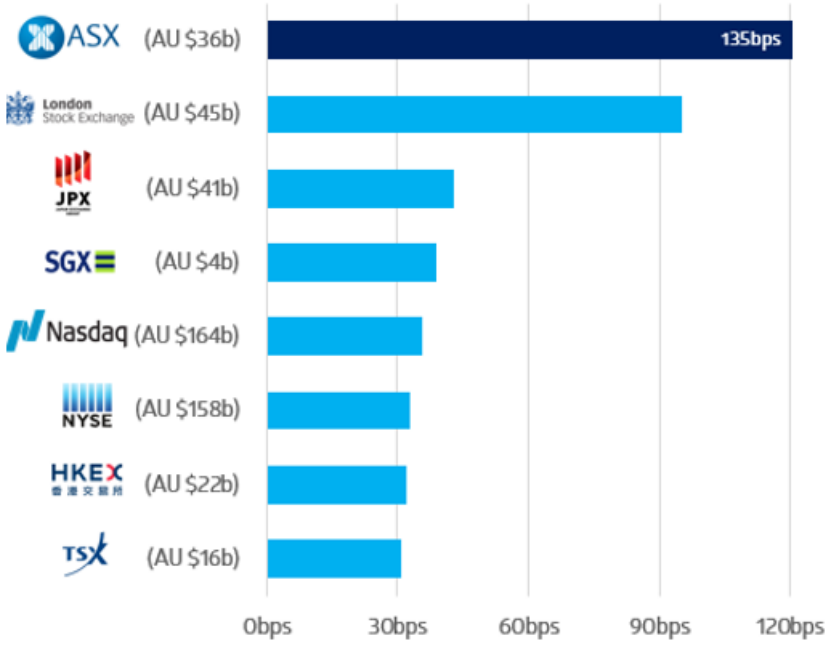
- Transparent, confident and informed participation by retail and institutional investors, which in turn enhances the depth, liquidity and efficiency of Australian capital markets.
- A high level of market cleanliness, minimising information asymmetry between those seeking capital and those providing capital in a market.
- The ability for listed companies to raise significant amounts of capital to fund growth quickly and efficiently.

This contributes to more efficient price discovery and capital allocation in the public market, leading to a lower cost of capital for Australian listed entities.

Secondary capital raising processes

As acknowledged in ASIC's Discussion Paper, as well as in Report 807, Australia performs extremely well in secondary capital raisings (follow-on offerings[1]), which have remained at historically healthy levels despite the decrease in global IPO activity over the past few years. ASX ranks materially above other exchanges, including Nasdaq, NYSE, HKEX, LSE and TSX (see **Figure 2** below), as measured by the value of follow-on offerings as a proportion of total market capitalisation.

Figure 2: Follow-on Offerings – bps relative to total market cap (2024[2])



Values in brackets show total offer size

[1] Follow-on offerings include rights issues, share purchase plans, accelerated issues and placements.
[2] Dealogic, World Federation of Exchanges, S&P Capital IQ. Dealogic definition of follow-on offerings includes block trades.

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The combination of ASIC and ASX regulatory settings, including the ability to raise up to 15% of a company's issued capital using straightforward and concise documentation within two days, works well to facilitate secondary capital raisings.

ASX's global leading performance in secondary capital raisings further reinforces the case for streamlining the process for IPOs. ASX's secondary capital raising settings allow companies to quickly and efficiently raise capital with fewer regulatory burdens than competing exchanges. This efficiency should extend to IPOs to encourage more companies to list. In conjunction with the capital markets ecosystem, ASX has been exploring opportunities to streamline and enhance the IPO process, which are discussed at **Section 3.1** below.

2. Appropriate regulatory settings for capital markets

One of the key questions in ASIC's Discussion Paper is if there needs to be greater harmonisation between the regulation of public and private companies. Private and public companies have different disclosure requirements and obligations. There is ongoing debate about whether private markets should face more fulsome oversight, particularly as they grow in size and influence. The growth in private capital, including private credit, has led to concerns about systemic risk and market opacity. The challenge lies in enacting regulation that is proportionate, and fosters capital formation while managing for systemic risks that could impact the broader economy. Regulators around the world are increasingly examining ways to balance the need for market efficiency and innovation while maintaining financial stability and fairness.

Increased links between public and private markets

As cited in ASIC's Discussion Paper, the International Organization of Securities Commissions (**IOSCO**) acknowledged the transmission risks posed by the increased interconnection between public and private markets in its September 2023 Thematic Analysis of Emerging Trends in Private Finance, which found:

> "a general agreement among all external stakeholders that the public and private markets are now sufficiently intertwined that it is difficult to distinguish risks unique to one market and not the other: any one market event could have implications across both markets and, potentially, the broader financial system."[3]

IOSCO notes that the lack of transparency in private markets is of particular concern, as it inhibits the ability to contextualise and assess the risks posed in those markets.

Disclosure obligations of listed entities

ASIC's Discussion Paper notes that private and public companies have different disclosure requirements and obligations. Listed companies in Australia face higher regulatory, governance, disclosure and shareholder requirements than private companies.

Listed companies are subject to a range of obligations that unlisted entities do not have to comply with including:

- an operating and financial review in annual reports;[4]
- CEO and CFO declarations in relation to financial statements;[5]
- specific directors' report disclosure requirements;[6]
- contemporaneous disclosure of changes in directors' shareholdings[7];
- substantial shareholder notices and beneficial ownership register;
- rotation requirements for company auditors;
- a range of requirements relating to meetings including longer notice periods, auditor attendance requirements, process for written questions to auditors and disclosure of proxy vote;

[3] IOSCO, Thematic Analysis: Emerging Risks in Private Finance, September 2023, page 39.
[4] Corporations Act, s 299A.
[5] Corporations Act, s 299A.
[6] Corporations Act, s 300.
[7] Corporations Act, s 205G.

- a remuneration report,[8] which is to be voted on at a company's annual general meeting (**AGM**). The Corporations Act provides that if a company's remuneration report receives a 25% or more 'no' vote at two consecutive AGMs, a spill resolution must be put to the vote at that second AGM. This spill resolution determines whether a special meeting should be held to consider the re-election of all directors (except the managing director); and
- termination benefit prohibitions and shareholder approval requirements applying to a broader group of people i.e. 'key management personnel' for listed companies being the people named in the remuneration report and not merely directors as for non-listed entities.

The regulatory settings for listed and unlisted markets have developed over time and impose different requirements based on different market segments.

It is useful to consider the different disclosure regimes for public and private companies and whether all of the additional requirements for listed companies are continuing to meet the original objectives for which they were put in place.

Whilst regulatory settings take into account whether a company is public or private, they can also vary according to the activity being undertaken, as well as an entity's size. For example, ASIC acknowledges that there are some obligations that are triggered by widespread fundraising activity, rather than listing status (for example, unlisted disclosing entities have continuous disclosure obligations that can be met by providing information on their website). Similarly, there are governance obligations where the size or nature of the company, rather than its listing status, is determinative.

The Government's mandatory climate-related financial disclosure legislation originally targeted only listed entities exceeding a certain size threshold. ASX advocated that the new disclosure regime be applied to both listed and unlisted entities, to ensure that the regime meets societal expectations and the intended policy objectives. The final legislation requires all companies exceeding a certain size threshold to disclose information about climate-related risks, regardless of public or private company status.

Appropriate regulatory settings across all entities

In light of the increased interconnectedness of public and private markets, it is worth considering whether there are disclosure obligations that should apply to all entities of a certain size, regardless of listed status. Large private entities can have significant economic influence on the Australian economy, including impacts on public markets, while operating with relatively limited transparency. Considering enhanced transparency and proportionate disclosure requirements for large unlisted entities may reveal opportunities to enhance market stability, support informed and confident retail and institutional investors, and economic resilience.

ASX acknowledges that a higher level of regulation and disclosure obligations is appropriate for listed entities to facilitate good governance, given the widespread ownership of public companies. There are strong reasons to regulate private and public markets differently, and benefits in retaining a distinction between the two. However, the regulation that applies to private markets should appropriately reflect the level of risk that these entities pose to the financial system, the broader economy, and to investors.

In considering the appropriate level of regulation and disclosure obligations for unlisted entities, it is important for regulators to have regard to the systemic risks posed by the connections between markets (as identified by IOSCO above). An appropriate level of transparency would allow regulators and Government to understand the risks presented in these markets. Greater understanding of these risks could enhance risk management, reduce the risk of systemic shocks and ultimately lead to more informed policy settings. An appropriate balance would need to be struck between addressing the risks posed by large private entities and imposing increased regulatory burden, taking into account the nature of the entities being regulated.

3. Proposals to enhance the attractiveness of Australia's public markets

Australia's financial services sector is well-regulated and highly regarded globally.[9] To ensure that Australia's public markets remain globally competitive and competitive with private capital – to continue to provide Australians with wealth creation opportunities – we should continually examine the attractiveness of listed markets. Based on

[8] Corporations Act, s 300A.

[9] Page 2, Australia as a Financial Centre: Seven years on, The Second Johnson Report which is available at: https://www.fsc.org.au/resources-category/publication/755-2016-0628-fsc-australiaasafinancialcentre-7yearson/file.

discussions with capital markets ecosystem participants, ASX has a number of suggestions to improve the attractiveness of Australian public markets including streamlining the IPO processes, giving consideration to dual-class shares, reviewing the approach to financial forecasts in prospectuses, exploring founder/insider sell down plans, reviewing foreign exempt listing thresholds, reducing free float requirements, and listed corporate bond reform.

Rule settings play an important role in public markets and in promoting market integrity. ASX is committed to ensuring that its rules remain fit for purpose, which also means that rules should not result in an unnecessary compliance burden on listed entities. Some of ASX's recent policy initiatives have focussed on identifying 'pain points' for listed entities and assessing whether rule or guidance changes can address those issues without compromising market integrity. Factors considered when prioritising these initiatives include whether they will simplify and clarify ASX's rules and guidance or provide greater flexibility for listed entities, while maintaining or improving transparency for retail and institutional investors. Examples of recent initiatives include the revision of ASX's approach to naming counterparties in material announcements, and new continuous disclosure guidance regarding cyber incidents. We are also planning to consult this year on whether our rule settings can be changed to better accommodate employee incentive schemes without compromising the reputation and integrity of the ASX market.

In addition, the ASX Corporate Governance Council has played a critical role in shaping corporate governance practices in Australia for more than two decades through its work developing and issuing the ASX Corporate Governance Principles and Recommendations. In February 2025, the Council closed its consultation on a draft fifth edition of the Corporate Governance Principles and Recommendations, concluding that the current fourth edition should remain in effect without change, an outcome that ASX supported. ASX's goal is to support the development and maintenance of appropriate corporate governance principles and practices for Australian listed markets.

3.1 Streamlining the IPO process

Taking a company public is a transformational process which provides a company with increased access to capital and additional investment opportunities for Australians. As part of the IPO process in Australia, companies are required to lodge a prospectus with ASIC.

The period between when the IPO is priced and the final prospectus is lodged with ASIC until when the company is quoted on ASX is where investors are subject to market risk and is referred to as the 'on risk' period. ASX has received feedback from a broad range of market participants that a key challenge for companies and investors is the length of this 'on risk' period. This is particularly important in Australia because most IPOs use a front-end bookbuild structure, whereby institutional investors are committed to the IPO prior to public prospectus lodgement. In several other major markets, a back-end bookbuild structure is used, whereby institutional investors are only committed to the IPO after public lodgement and regulatory approval of the prospectus (the offer period is generally short because the prospectus is 'live' from the time of issue). This means that in Australia the 'on risk' period is often comparatively longer than other markets. Front-end bookbuilds are popular in Australia because there is less market risk taken by issuers and more market risk taken by investors compared with back-end bookbuilds. Under ASX's fast-track IPO process (explained in further detail below), this 'on risk' period is a minimum of 2 weeks and can be up to 3.5 weeks. Reducing this 'on risk' period would shorten the amount of time that investors and companies are exposed to market risk, facilitate better price discovery and make companies more likely to IPO and investors commit to them.

During the 'on risk' period two important regulatory processes take place: (1) issuers[10] submit their listing application to ASX and (2) issuers submit their prospectus to ASIC and the ASIC exposure period (see below for further detail) begins.

ASX listing application process

Companies seeking to list on ASX can do so via either a standard or a fast-track process. For the fast-track listing process, entities need to have agreed in advance with ASX and meet threshold requirements such as a minimum market capitalisation of $100m. This is important because ASX will not agree to a fast-track process if an application is likely to require more time to assess from a rule compliance perspective.

[10] Companies undertaking an IPO.

The formal application process for a fast-track listing commences with a company submitting a draft listing application (and other required information) with a pathfinder[11] prospectus. ASX commences its review of the information to determine whether listing requirements have been met and will ask for further information where required.

ASX will make its decision whether to admit the company after it lodges a final prospectus with ASIC and submits a final listing application to ASX. ASX's decision to admit an entity will be accompanied by a number of admission conditions that the entity needs to meet before admission can occur. These conditions largely relate to matters that the entity cannot confirm at that stage of the process.

After the admission conditions have been communicated to the applicant, ASX cannot progress the application further until the applicant provides evidence that the conditions have been met (which will be after the close of the offer under the prospectus).

Once ASX is satisfied that all admission requirements have been met, ASX makes final arrangements for admission and quotation to occur. For operational and risk management reasons, entities are generally admitted to the official list two days prior to quotation if their securities settle on a normal T+2 settlement basis, or either one day prior or the morning of quotation if the company has arranged for its securities to settle on a conditional and deferred settlement basis.

For fast-track listing applications, the assessment process following receipt of the final listing application and prospectus lodgement is shortened and takes a minimum of two weeks, compared with four to six weeks for a standard listing application.

From a company's perspective, the 'on risk' period within the ASX listing process is the period when the final prospectus has been lodged with ASX and ASIC until its shares are quoted, which is a minimum of two weeks for fast-track applications (assuming the ASIC exposure period is not extended). The IPO timetable is also determined by the length of the offer period, which is under the control of the company and its advisers.

ASIC Exposure Period

Following lodgement of the prospectus with ASIC, a seven-day exposure period commences which ASIC may extend by a further seven days. During this period ASIC can review the content and presentation of the prospectus and ask questions of the issuer. The market may also raise questions with the issuer about the prospectus and provide this feedback to ASIC.

During the exposure period, the issuer is not permitted to process applications for securities. After the exposure period has been completed, the retail offer period will commence.

Proposals to streamline the 'on risk' period in the IPO process

Market feedback has identified the 'on risk' period as a key challenge for potential new issuers as well as investors who can be subject to considerable volatility during a period that is longer than some other markets.

Reducing the 'on risk' period would provide more certainty to both investors and issuers in IPOs. This could be achieved by:

1. ASIC undertaking not to extend the exposure period beyond seven days; and
2. allowing retail investor applications to be processed during the exposure period (consistent with PDS regime).

To ensure ASIC has sufficient time to consider the content and presentation of the prospectus, issuers could share the draft prospectus with ASIC two (or more) weeks prior to public lodgement of the final prospectus. ASIC could undertake to raise any concerns either prior to or early in the exposure period, which would significantly reduce any likelihood of an extension. During the exposure period, brokers would be able to accept and process retail client

[11] A pathfinder prospectus is a draft prospectus, which has not been lodged with ASIC. A pathfinder prospectus does not include certain information such as deal metrics (offer prices/number of shares to be issued) that is required to be included in the final Prospectus lodged with ASIC.

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investment applications. As with the PDS regime, the sale of the securities would not occur until settlement date, which would still take place once the exposure period has ended.

This more streamlined process would apply in the case of all fast-track listing applications, though ASX acknowledges that there may be rare circumstances where ASIC needs to extend the exposure period and would still have its stop order powers.

If there is a significant change required to the prospectus or its contents are considered to be 'materially adverse' during the exposure period (after applications have been accepted), issuers would provide investors with a supplementary or replacement prospectus and confirm whether they still wish to proceed with their application, or have their monies repaid. This would mean investors are fully informed before making a decision to invest. In practice, we would expect any issues to be identified prior to the opening of the retail application period and so the above scenario would be rare.

Taken together – ASIC being given the opportunity to review prospectuses earlier in the process, not extending the seven-day exposure period and enabling retail investor applications to be accepted and processed during exposure period – the 'on-risk' period could be reduced for both investors and issuers.

ASIC would need to make changes to its current policy and processes to implement these proposals.

3.2 Dual-class shares

Companies seeking capital today have several options – private capital, domestic listing venues, or offshore listing venues. Globally, exchanges and regulators are examining their rules and regulations to competitively position their exchange offerings to attract listings from their respective markets, and from other markets. A number of major exchanges have introduced or updated their rules on dual-class share structures, including Singapore (in 2018[12]), China (in 2019[13]), Hong Kong (in 2018[14]) and the UK (previously permitted only in the 'premium' listed segment which was broadened in the 2024 listing rule reforms)[15]. The United States is perhaps best known for dual-class shares, where they have been common since the 1980s. Australia is now out of step with other major markets by not allowing dual-class shares.

Listed shares commonly provide one vote per share. In contrast, dual-class shares consist of two share classes with different levels of voting rights. There are also multi-class shares which have different voting rights for each class of share, across multiple share classes (e.g. Class A, Class B and Class C). Shares entitled to a higher number of votes are often held by founders or early investors. Shares entitled to a lower number of votes may be held by other investors such as those that acquired shares on or after listing.

Taking a company public provides many opportunities including funding to accelerate growth. At the same time, some founder-led organisations worry about not being able to make long-term decisions that may have a short-term negative impact on share prices. Therefore, the ability to have dual-class shares aids with the consideration on whether to remain private or to IPO on a listings venue that allows those types of shares.

To address these concerns and attract founder-led listings, many exchanges allow companies to have dual-class shares. Dual-class share structures have been utilised by a wide range of companies including well-known technology companies such as Atlassian, Google (now Alphabet), Facebook (now Meta) and Square (now Block)[16]. According to data prepared by Jay Ritter from the University of Florida, dual-class shares are used much more in the USA amongst tech IPOs than by non-technology listings with 42% of tech IPOs in 2024 having dual-class shares compared with 17% of

[12] 20180626_SGX_launches_rules_for_listing_of_DCS_companies.ashx
[13] Page 31, Robin Hui Huang, Wei Zhang & Kelvin Siu Cheung Lee (2019): The (re)introduction of dual-class share structures in Hong Kong: a historical and comparative analysis, Journal of Corporate Law Studies, DOI.
[14] Robin Hui Huang, Wei Zhang & Kelvin Siu Cheung Lee (2019): The (re)introduction of dual-class share structures in Hong Kong: a historical and comparative analysis, Journal of Corporate Law Studies, DOI.
[15] https://www.fca.org.uk/publication/policy/ps24-6.pdf.
[16] Page 2 (2018) Multi-class_shares_around_the_world, Kim J, Matos P, Xu T.

non-tech IPOs.[17] However, Ritter's data also shows dual class-shares are increasingly used overall. Between 2017-2024, 20% or more IPOs featured dual-class shares which was up from preceding years, where less than 20% of listings had dual-class shares.[18]

There are a range of reasons why a company may choose to have dual-class shares. Advantages include offering founders greater control to enable them to achieve their vision and protect against potential investor short-termism. It also enables private companies to preserve the multiple share class structures that may have been in place for a long time and well before an IPO. On the other hand, there are corporate governance concerns that unequal or lower voting rights may lead to overall less accountability to shareholders. These are all valid considerations that are worthy of further discussion and debate.

Remaining globally competitive

Australia has a globally attractive capital markets ecosystem, supported by a highly regarded regulatory regime and the fourth largest global pension/superannuation pool which is projected to become the second largest (behind the US) by the early 2030s.[19] This provides companies listing in Australia with access to a growing pool of capital (prudentially regulated superannuation fund's share of the ASX has also steadily increased over the last 12 years and is now over 20% of ASX).[20] In spite of these favourable attributes, and recognising there are a range of reasons why companies may choose to list offshore, it is a missed opportunity when Australian grown companies list offshore due to the flexibility offered by having different share classes. Atlassian bosses Scott Farquhar and Mike Cannon-Brookes both cited the ASX's opposition to dual-class structured companies as a reason they listed on the NASDAQ rather than ASX.[21] Like Atlassian, other large Australian private companies may in the future choose to list in other jurisdictions that permit dual-class shares.

While ASX does permit dual-class shares for companies that dual-list under ASX's Foreign Exempt listing category from other jurisdictions (if permitted by the exchange where the company's primary listing is), ASX is out of step with other major global exchanges as it does not allow dual-class shares for primary listings.

There will be a range of views on dual-class shares, however ASX is supportive of further consideration and debate on this topic with key stakeholders in the Australian capital markets ecosystem. ASX's overall aim is to be the most attractive and competitive place to list globally and seeks to offer investors a diverse range of investment opportunities.

Both ASX and ASIC would need to make policy changes to implement this proposal.

3.3 Financial forecasts in prospectuses

ASX has received feedback from market participants that there is a preference, in some circumstances, to not include financial forecasts in prospectuses due to the added complexity to the IPO process and additional post-listing issues. This feedback typically revolves around four key factors:

- **Regulatory scrutiny**. ASIC imposes strict requirements on financial forecasts to ensure they are based on reasonable grounds.[22] Any misleading or deceptive forecasts can lead to serious legal consequences for entities.
- **Disclosure requirements**. The Corporations Act requires detailed disclosure of assumptions underlying forecasts, meaning that companies must ensure that their projections are backed by verifiable data and reasonable methodologies.
- **Legal and liability risks**. Directors and companies face potential litigation if forecasts turn out to be inaccurate.
- **Audit and verification costs**. Independent accountants or auditors often review financial forecasts, increasing due diligence costs and time requirements.

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[17] See Table 23 Dual Class IPOs for further detail on the sample of IPOs, which include those with an offer price of at least $5.00 and other considerations. Source: Initial Public Offerings: Dual Class Structure of IPOs Through 2024 (2025), J.R.Ritter. Available Microsoft Word - IPOs-DualClass.
[18] Table 23 Dual Class IPOs, Initial Public Offerings: Dual Class Structure of IPOs Through 2024 (2025), J.R.Ritter. Available Microsoft Word - IPOs-DualClass.
[19] Australians' super savings on track to become second largest globally by the early 2030s | SMC Australia
[20] See Chart 7, Super system's share of ASX https://www.superannuation.asn.au/wp-content/uploads/2025/02/ASFA-research-paper-Super-and-the-economy.pdf.
[21] Here's what you need to know about dual class shares and why the ASX still bans them in 2025
[22] Corporations Act, s 728.

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ASX understands that there is no strict legal obligation to provide financial forecasts in prospectuses, however the market believes that ASIC expects a forecast to be included where there is a reasonable basis to provide one.

Current disclosure requirements for prospectuses

Section 710 of the Corporations Act outlines the general disclosure requirements for prospectuses. It mandates that a prospectus must contain all information that investors and their professional advisers would reasonably require to make an informed assessment of the rights and liabilities attaching to the securities offered, and the assets and liabilities, financial position and performance, profits and losses, and prospects of the issuing entity. This encompasses both historical financial data and, where relevant, future prospects.

ASIC's guidance on prospective financial information (Regulatory Guide 170 (**RG 170**)) provides that any forward-looking statements must be based on reasonable grounds to avoid being misleading. While there is no strict legal obligation to provide financial forecasts in a prospectus, RG 170[23] generally reflects ASIC's expectation that a financial forecast must be disclosed in a prospectus if it is relevant to investors and is reliable (i.e. reasonable grounds exist for making such forecasts).

Optional disclosure

To further streamline the IPO process and enhance the attractiveness of listing on Australian markets, ASX recommends that ASIC make the obligation for a forecast optional, so that issuers can either:

- Provide financial forecasts on reasonable grounds; or
- Explain the decision to not provide financial forecasts, including risk factors and uncertainties that make projections unreliable or impractical.

An optional obligation to provide financial forecasts would strike a better balance between transparency and flexibility, resulting in more attractive regulatory settings for some companies looking to IPO in Australia.

ASIC would need to provide written clarification to implement this proposal.

3.4 Founder or insider share sell down plans

Another reason that market participants have been cited for listing on offshore exchanges rather than ASX is the challenge faced by founders and insiders in selling shares while staying within Australia's robust insider trading laws.

Insider trading is prohibited under Division 3 of Part 7.10 of the *Corporations Act*, with section 1043A(1) making it unlawful for a person to trade while in possession of 'inside information'—that is, material, non-public information that could influence a reasonable person's decision to trade. This foundation is critical for maintaining investor confidence and ensuring a level playing field in the Australian public market.

While these laws serve an essential purpose, their practical implications can present significant obstacles for company founders, directors, and other insiders who often own a meaningful portion of the company and/or receive a meaningful portion of their overall compensation through equity awards. Understandably, many insiders seek to liquidate part of their holdings on a regular basis to provide cashflow or diversify their investments. When managed responsibly, these transactions also benefit the broader market by increasing liquidity and expanding shareholder participation.

In practice, however, insiders are frequently unable to sell shares (even during designated trading windows) due to their continued access to inside information. This issue is particularly acute for high-growth and acquisitive companies, where the constant flow of sensitive information can leave insiders perpetually restricted. As the number of technology and innovation-driven companies on ASX increases, this structural tension is becoming more pronounced.

The limited avenues available to insiders often lead them to rely on block trades. While these sales occur during narrow defined trading windows, they can be misinterpreted by the market as a negative signal about the company's outlook or the insider's sentiment. This misinterpretation can create distortions in the market, triggering price volatility and dampening investor sentiment. In some cases, even the mere anticipation of insider selling —particularly around trading windows or the expiry of escrow periods—can result in increased share price volatility and a negative impact on share prices due to a perceived overhang.

[23] RG170.11 Prospective Financial Information.

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To support a more dynamic and inclusive capital market, it is worth exploring ways to preserve the integrity of Australia's insider trading regime while also enabling responsible and transparent mechanisms for insiders to access liquidity.

Current practice in the United States

In the United States, Rule 10b-5 is a regulation created under the *Securities and Exchange Act of 1934* that targets securities fraud, essentially the equivalent of Australia's insider trading laws. In 2000, the SEC adopted Rule 10b5-1, which among other things, provides an affirmative defence to insider trading claims for entities and individuals that have entered into binding trading plans for future sales or purchases of company shares, regardless of price movements.

Rule 10b5-1 permits founders and other insiders of publicly traded corporations to set up a trading plan for selling or buying a predetermined number of securities at predetermined times. While attention is focused generally on the selling of securities, a Rule 10b5-1 plan also covers the purchases of securities. A key requirement of a Rule 10b5-1 plan is that insiders must not be aware of any material non-public information (**MNPI**) when entering into the agreement.

A Rule 10b5-1 plan is only valid if the following elements are met:

- the plan was entered into in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b5-1
- the plan was adopted at a time when the person trading was not aware of any MNPI
- the terms of the plan specified the amount, pricing, and date of the transaction(s) (or included a written formula, algorithm, or computer program for determining the amount, pricing and date)
- the person trading under the plan did not exercise any subsequent influence over how, when, or whether to make purchases or sales
- the sale or purchase was made pursuant to the plan.

Further changes were made to Rule 10b-1 in December 2022 to increase disclosure requirements for trades and gifts of securities requiring the person setting up trades to certify they are not aware of any MNPI and are acting in good faith. The changes also added new conditions to the use of the affirmative defence to insider trading liability, including the establishment of a cooling-off period before any trading can commence.

Example application of a 10b5-1 plan

In February 2020, Nasdaq-listed Atlassian Corporation announced that co-founders and co-CEOs Scott Farquhar and Mike Cannon-Brookes had each adopted a new stock trading plan in accordance with guidelines specified under Rule 10b5-1 and Atlassian policies. Under the terms of the trading plan, each co-founder would sell up to 2.34 million shares (out of a total of the 118.6 million Class B shares they collectively own) over the following 12-month period.[24]

Benefits of a Rule 10b5-1 plan

Mechanisms such as Rule 10b5-1 plans facilitate the orderly sell down of shares. In Australia, sales of company shares by founders and other insiders are often scrutinised by investors and the media, given information relating to such sales is, rightly, publicly available. Sales pursuant to pre-authorised 10b5-1 plans are not influenced by current insider information or trends in the company's share price, as the plans are set at a time when the individuals do not have MNPI. By outlining their intentions and the terms of the plan upfront, the founder or other insider can sell down a position over time, instead of relying on a single block trade, and mitigate the need to manage adverse, often unfounded, investor perceptions. In an Australian context, ASX could readily facilitate public disclosure of a 10b5-1 plan equivalent through the Market Announcements Platform.

By allowing the timing of insider trades to be set and managed in advance, 10b5-1 plans avoid the requirement for founders and other insiders to trade only during company-specified 'trading windows'. This would most likely lessen the increase in company share price volatility commonly observed around the time of 'trading windows' and expiry of escrow restrictions.

[24] Atlassian Co-CEOs Adopt New 10b5-1 Trading Plans.

A solution for the Australian market

As the ASX market has evolved and attracted founder-led and high growth companies, particularly in the technology sector, there is a case for reconsidering if Australian regulatory settings provide appropriate mechanisms for insider sell down arrangements, balanced against the objectives of Australia's strong insider trading laws. In the US, the SEC approach of enabling 10b5-1 plans provides a useful framework, including appropriate safeguards, which Australian markets could use as a basis for change. ASX would be supportive of exploring a similar mechanism in Australia.

Implementing this proposal would require changes to the Corporations Act, and any consequential changes to ASX Listing Rules (subject to regulatory clearance by ASIC).

3.5 Financial thresholds for ASX Foreign Exempt Listings

There are three categories of ASX listings available to entities established outside of Australia - an ASX Foreign Exempt Listing, a standard ASX Listing, and an ASX Debt Listing.[25] An ASX Foreign Exempt Listing is for entities listed on another securities exchange that wish to have a secondary listing on ASX and that meet certain eligibility criteria. Entities in this category must comply primarily with the rules of their home exchange and are exempt from most of ASX's Listing Rules. Other than for New Zealand companies, high financial thresholds apply for a company to be admitted as an ASX Foreign Exempt Listing. If the entity is not a qualifying NZ entity, it must also have at least A$200 million operating profit before tax for each of the last three years or, at the time of admission, have net tangible assets of at least A$2 billion or a market capitalisation of at least A$2 billion.

These thresholds are notably higher than those for standard ASX listings, reflecting ASX's intent to ensure that only substantial and established foreign companies qualify for the exempt status. Furthermore, only foreign entities listed on a stock exchange acceptable to ASX can be admitted as a Foreign Exempt listing, which are primarily the main exchanges in developed markets considered to have broadly equivalent listing standards. However, ASX has received some feedback that the financial thresholds are prohibitively high, thereby decreasing the attractiveness of ASX as a secondary listing venue for foreign entities.

ASX considers that the overall quality of Foreign Exempt listings could be maintained with a lower minimum size threshold because it is only available to companies listed on acceptable exchanges that have equivalent standards of listing rules and compliance. As highlighted above, it is the main boards (opposed to second boards or junior markets) of acceptable home markets that are recognised as having equivalency, so a minimum size threshold should also reflect this requirement.

ASX considers that it can responsibly broaden access for foreign entities while safeguarding the integrity of its market by amending the threshold to A$500 million market capitalisation at the time of admission – which is equivalent to the approximate entry level into the S&P/ASX 300 index. The financial thresholds relating to operating profit or net tangible assets are rarely used, and as such, ASX would look to remove these thresholds in the interests of simplification.

Implementing this proposal would require amendments to the relevant ASX Listing Rules (subject to regulatory clearance by ASIC).

3.6 Reducing free float requirements

Free float refers to the securities of a listed entity that can be publicly traded and are not restricted and/or held with insiders or strategic shareholders (in other words, readily available for trading). Stock exchanges and index providers set minimum requirements for free float, seeking to strike a balance between management/founder shareholdings and market liquidity.

ASX Listing Rules require new listings to have a minimum free float of 20%. Key Australian indices, the S&P/ASX 200 and 300, currently have a minimum free float requirement of 30%. Both measures are higher than in several other global markets. For example, in the US market companies often have a lower free float at IPO than on ASX; exchanges do not have a percentage-based restriction on free float, however restrictions exist for a minimum number of shareholders or float shares, and the minimum free float requirement for the S&P U.S. indices is 10%. Over the past five years the

[25] Refer to ASX Guidance Note 4 for more information.

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median IPO offer size as a proportion of market cap was approximately 17% in the US market versus approximately 41% on ASX.[26]

ASX has received feedback from potential issuers and their advisers that reducing the minimum free float for the purposes of ASX Listing Rules and S&P/ASX index inclusion would provide greater flexibility and help attract new listings to the Australian market. This is particularly the case for companies in high-growth sectors like technology and life sciences that would like to scale and innovate without having to sell as much of the company at the time of listing.

ASX proposes to consult on a reduction in the minimum free float to 15% for both ASX Listing Rules and S&P/ASX indices. This could allow management/founders to minimise dilution of their shareholdings at listing and to retain greater shareholdings, whilst allowing for a well-governed, active market. From an index perspective, in addition to free float percentage there are both size and liquidity criteria that companies must meet to be eligible for index inclusion. This means reducing free float would have negligible impact on S&P/ASX 200 and 300 index liquidity, and turnover of existing index constituents, at the new proposed level.

This proposal would require changes to ASX Listing Rules and S&P/ASX Australian Indices Methodology (subject to regulatory clearance by ASIC).

3.7 Listed corporate bond market

Equally important to a strong and well-functioning public equity market is a vibrant listed debt market.

Whilst it is well recognised that corporate bond markets provide an important source of financing for economic growth[27] and help companies to diversify their sources of capital, Australia's corporate bond market is largely made up of wholesale investors. Furthermore, Australian companies are heavily reliant on offshore debt markets due to lack of depth in the domestic market.

There is currently limited direct retail access via an exchange, with only six corporate bonds directly accessible to retail investors on ASX. These listed bonds have an aggregate market capitalisation of less than $1 billion and held by less than 5,000 individual investors.[28] This is a small proportion of overall corporate bonds issued by Australian entities and less than 0.1% of the estimated $1 trillion corporate bonds issued by Australian companies into both local and offshore markets.[29]

Creating a deep and liquid listed corporate bond market, with a diversified investor base is beneficial for both companies raising capital and retail investors, and in particular to Australia's growing number of retirees, seeking investment diversification opportunities with steady income.

The 2014 Corporations Act reforms, which provided limited disclosure relief and established a simple corporate bonds regime, did not address the regulatory barriers necessary to develop a thriving retail listed corporate bond market in Australia. As noted above, this initial change has resulted in only a limited number of corporate bonds being directly available to retail investors.

A number of reviews have considered the impediments to the development of a thriving retail corporate bond market in Australia, with both the 2015 *Financial System Inquiry Final Report*[16] (**FSI Final Report**) and the 2021 Standing Committee on Tax and Revenue report on *The Development of the Australian Corporate Bond Market: A Way Forward* making recommendations to improve the regulatory settings to facilitate growth of the retail corporate bond market. None of the recommendations relating to retail corporate bonds have been implemented.

ASX has long been advocating for further reform to facilitate a thriving retail listed corporate bond market and has been working with industry participants as part of the Corporate Bond Reform Working Group to help drive further change.

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[26] Dealogic 1/01/2020 - 31/03/2025.
[27] Page 2 (2017) Examination of Liquidity of the Secondary Corporate Bond Markets Final Report, IOSCO. Also available at: FR05/2017 Examination of Liquidity of the Secondary Corporate Bond Markets
[28] ASX analysis October 2024.
[29] Australian Bureau of Statistics: 5232.0, Australian National Accounts: Finance and Wealth (September 2024).

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To address the regulatory barriers, the following five key changes to the simple corporate bond regime are proposed:

1. Streamline disclosure requirements to remove duplicative disclosure requirements for listed entities that are already subject to continuous disclosure obligations.
2. Review the approach to financial ratios to provide issuers with more flexibility to use more relevant financial ratios. This would also enable more meaningful information to be provided to investors that better reflects the diversity of businesses that may offer simple corporate bonds.
3. Enable early redemptions of simple corporate bonds to enable issuers to refinance bonds prior to their maturity date, as they are able to in wholesale markets.
4. Review trustee regulatory settings under the Corporations Act with a view to increasing trustee availability.
5. Facilitate greater retail access to corporate bond information by reviewing regulatory settings for credit rating information.

Implementing the above recommendations would involve legislative reforms, as well the need to review ASIC regulatory guidance and potential flow changes to the ASX Listing Rules.

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