Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Oversight of ASIC, the Takeovers Panel and the Corporations Legislation
Question No.	090
Topic	Gaps in financial service provision
Reference	Spoken, 30 April 2024, Hansard page 36-37
Committee member	Senator O'NEILL

Question

Ms Constant: … in Australia we have the benefit of a lot of capital, including private capital. Part of that is the superannuation system et cetera—so some more megatrends. That means that we have a rising private market. We have quite a sophisticated private market as well, which might be part of the reason that companies are not taking up the opportunity to list as much as they were in the past. We're looking to be across that and understand that. We're very much looking to understand that, and not just for the role of having an in-class, at-standard stock exchange, which we're obviously committed to. If you look at the ASIC Act and what we're required to do, that's at the very core of what we're supposed to do with efficient financial systems and the entities within them. But it is not just in that regard. It is also to make sure that in the way we regulate and think about things like traditional conduct, for example, we are mindful of the important role that private institutional capital is playing, as much as the listed markets …

CHAIR: Can I just ask you, because you're across so much here, to take on notice where you see gaps in the market and ways in which they might be able to respond, becaaprause one of the issues that have been put to me is that superannuation is so large now. Having been derided as the thing that would kill the Australian economy, it is now $3½ trillion.

Ms Constant: A trillion more than listed.

CHAIR: We're very mindful of that. What's happening in this space for small entities that are seeking to grow and are not being serviced by the banks? That's part of the financial sector. Where are they going to get small amounts that are too small for the big superannuation companies?

Ms Constant: How will they raise capital?

CHAIR: Where do they go? Where is the access to that bit of the market that can't be serviced by the superannuation sector at scale, because of their scale—the gap between where the banks are, this little bit? We've got to look at everything in terms of productivity growth for the country. We have to be looking at that. There's a gap there, it seems to me, in financial service provision that needs some investigation, so I'd ask you to take that on notice.

Ms Constant: We will take that on notice. It's probably a question for some of our peer regulators, more than for us, if you think about provision of credit and what the APRA role is. However, there is much that sits outside of APRA's regulation, and that's where we're extra mindful. My colleagues, who have those years of experience of it, talked today about the breadth of our remit. There are spaces when it comes to credit, and we want the right credit provision, in accordance with regulations, and the right outcomes for consumers, not just provision of credit. So this is something we will take on notice.

Answer

Companies have a range of sources of capital. Unlisted smaller companies could use the crowd sourced equity funding regime, a pre-IPO fund raising from High Net Worth (HNW) investors or an initial public offer (IPO) and listing. Capital may also be sourced from private managed funds or debt finance – from banks, non-bank lenders or the growing number of private equity funds or private credit funds.

We expect that companies will consider their needs and the terms of conditions of any funding when making decisions about the choice of funding.

We understand that a large and growing part of capital raising is private equity funds or private credit funds. Private equity funds will normally take an equity holding in the company that they are providing funding to whereas private credit funds will extend credit to a company through a loan, or private securitisation. Some of the asset classes involved in private equity or private credit are not regulated the same as assets traded on a public market. For example, these asset classes don't have the same sort of liquidity as shares traded on public markets, have different public disclosure requirements and pricing that isn't as simple and transparent as for listed entities. The regulatory regime in relation to wholesale managed funds, and credit is more limited when compared to retail financial services.

The Reserve Bank of Australia has recently published a useful report on private equity markets in Australia that highlights the recent developments: The Private Equity Market in Australia | Bulletin – April 2024 | RBA

ASIC also has limited jurisdiction in relation to wholesale debt finance, otherwise known as commercial lending. For example, it is subject to the general protections in the ASIC Act but it is not subject to the more specific requirements which consumer lending is subject to under the National Credit Act. Corporations that provide finance need to be registered with APRA as a Registered Financial Corporation where they meet relevant thresholds. These must also regularly provide data to APRA commensurate with the size of their operations.