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CROWD-SOURCED EQUITY FUNDING

ASX is pleased to make a submission in response to the Government's discussion paper on possible models to support funding of small and start-up business through facilitating crowd-sourced equity funding (CSEF).

In its November 2013 submission to the Corporations and Markets Advisory Committee's (CAMAC) review into CSEF, ASX noted the potential for such funding mechanisms to play a role in helping some businesses with early stage finance. While the extent of that potential is not clear, it is timely for the Government to ensure up-front that regulatory settings are not an unnecessary barrier to the take-up of such facilities.

The Government is to be commended for seriously considering innovative solutions, such as CSEF, to bridge the gap that currently exists for start-up businesses. While the existing small scale personal offer exemption for capital raisings made to 'wholesale' investors provides some channel for funding early stage ventures, in practice this has had limited success in providing entrepreneurs with access to significant investment pools.

If the CSEF framework is properly designed and the class of companies eligible for the new arrangements are well defined it can find a place alongside the existing capital raising requirements for larger and more established companies. This would reduce the risk of regulatory arbitrage.

The two models considered in the discussion paper, the CAMAC (Option 1) and New Zealand (Option 2) models, share many similar features. ASX believes the features of the CAMAC model are more compatible with the Australian market.

In particular, ASX supports the following key design features of a regulatory model to support CSEF:

- Limiting the regime to small Australian-incorporated public companies or a new class of 'exempt public companies' with reduced compliance requirements (particularly for continuous disclosure and financial reporting). To be eligible these companies should also have not previously raised funds using existing public offer arrangements.

- Subject to the experience of the new arrangements there may be scope, in the future, to consider extending the arrangements to include foreign-incorporated companies if this provides an opportunity for Australia to become a regional crowdfunding hub.
- Applying reduced disclosure requirements to capital raisings, given both the small size of the companies and the capital being raised, as well as the other restrictions targeted at controlling investors' exposures.
- Establishing an annual cap on the funds a company (and related companies) can raise using the arrangements.
- Requiring intermediaries operating a funding portal to have an AFSL, as well as being required to have effective external dispute resolution arrangements, provide generic warnings to investors about the risks of CSEF and undertake limited due diligence on companies seeking to raise capital.
- Imposing a limit on the amount that an individual is able to invest in a single company and in aggregate across a range of companies in a 12 month period, although ASX notes the practical limitations associated with effectively policing such restrictions.

The range of caps and thresholds to be established are an appropriate safeguard against the risk that the new framework may expose investors to a new, high risk investment product. However some of the specific levels proposed seem quite restrictive and may act to restrict take-up of CSEF.

- The proposal that the maximum amount a company can raise using CSEF should be \$2 million in a twelve month period appears reasonable. While some have suggested a higher cap should be imposed, say \$5 million, this could potentially open up regulatory arbitrage with the obligations currently placed on public listed companies.
- In contrast, the proposed limit on individual's investments through crowdfunding portals (\$2,500 per company and \$10,000 in aggregate in any 12 month period) seems quite restrictive both for the investor and the issuer. While ASX acknowledges that the choice of any investment cap is arbitrary, levels could be doubled without exposing investors to excessive financial risks.

The obligations for intermediaries who facilitate the CSEF to take on a limited 'gatekeeper' role provides another layer of investor safeguards, particularly the proposals to manage conflicts of interest.

If you have any questions on this submission please contact: Gary Hobourn, Senior Economic Analyst, Regulatory and Public Policy ((02) 9227 0930 or gary.hobourn@asx.com.au.)

Yours sincerely,



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