

30 July 2021

Regulatory Powers and Accountability Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: FFSP@treasury.gov.au

Dear Sir/Madam,

ASIFMA AMG response to the Australian Treasury's Consultation on Relief to Foreign Financial Service Providers

On behalf of the Asset Management Group (“**AAMG**”)¹ of Asia Securities Industry & Financial Markets Association (“**ASIFMA**”)², we would like to submit our response to the Australian Government the Treasury’s (the “**Treasury**”) Consultation Paper on Relief to Foreign Financial Service Providers (the “**Consultation Paper**”).

Preference for Option 1 for FFSP framework

Our members, which are among the world’s largest asset management companies, would be considered foreign financial service providers (“**FFSPs**”) if they carry on a financial services business in Australia. Some, which have a large presence or operations in Australia, would have obtained an Australian Financial Service License (“**AFSL**”). However, many with no presence in Australia were only dealing with institutional clients in Australia and were pleased with the “sufficient equivalence

1 ASIFMA Asset Management Group (AAMG) is a separate division of ASIFMA set up to represent the interest of asset managers. AAMG currently has 37 members, most of which are among the world’s largest asset managers. A list of the AAMG members can be found in <https://www.asifma.org/membership/members/>

2 ASIFMA is an independent, regional trade association with over 150 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region’s economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

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relief” and the “limited connection relief” that were available to FFSPs before they were repealed on 31 March 2020.

As you may be aware, ASIFMA submitted a response on 3 August 2018 to the Australian Securities and Investment Commission (“ASIC”) in support of the response of the Australian Financial Markets Association (“AFMA”) to ASIC’s Consultation Paper 301 and emphasized our members would prefer the retention of the then existing relief, i.e. both the “sufficient equivalence relief” and the “limited connection relief”. Therefore, it is not surprising that members of AAMG prefer Option 1 in the Consultation Paper, which is to restore the previous relief.

The previously well-established regulatory relief are what FFSPs, such as our members, are familiar with and it had been working fairly well before they were repealed. However, rather than leave it to ASIC to issue or extend the FFSP class orders, our members would like to see the existing licensing exemption reliefs be embedded in the Corporations Act or Corporations Regulations going forward. This is why we favor Option 1 which offers a wider scope of relief allowing FFSPs to efficiently provide a wider variety of services or products to Australian wholesale investors.

Within Option 1, our members are split between the two sub-options with most of them preferring Option 1A, which would restore both the “sufficient equivalence relief” and the “limited connection relief” (through changes to the Corporations Act and/or through Corporations Regulations) over Option 1B, which would restore the “sufficient equivalence relief” and continue with the “fund management relief” which is supposed to replace the “limited connection relief”.

Our members are not in favor of either Option 2 or Option 3 due to the uncertainty over the additional conditions to which such Options may be subject, some of which may be more stringent than the requirements under the foreign AFSL or the previous reliefs, such as condition (g) on not dealing with unauthorized or unlicensed entities, condition (k) on complying with auditing and reporting requirements, condition (m) on applying protections for dealing with client’s money and property, condition (r) on ensuring representatives are appropriately trained, condition (s) on providing certain periodical information to ASIC, and especially condition (w) on a condition that ASIC can notify the FFSP of any additional condition it believes are necessary.

Clarification on transitional arrangement

Should the Treasury decide to go with Option 1 as preferred by our members, it would be helpful if the Treasury can clarify the transitional arrangement for FFSPs (a) which are currently approved under the “sufficient equivalence” class order regime (and which may or may not have terminated such relief), and (b) which have been granted a foreign AFSL.

Fast-tracking Options

Our members are generally in favor of Option 1 whereby ASIC is given the discretion to rely on similar assessment by other regulators on the “fit and proper” requirements. Of course, if the reliance on the determination of “fit and proper” by other comparable regulators could be reflected in the amended legislation as opposed to leaving it ASIC’s discretion, there would be more certainty and preferred by our members.

Our members are not in favor of Fast-track Options 2 and 3 because of conditions that may be stricter than the existing requirements and uncertainty over what these conditions may be.

Thank you for the opportunity to comment on the Consultation Paper. If you have any questions, please feel free to contact me at eshen@asifma.org or +852 2531 6570.

Yours sincerely,



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Asia Securities Industry & Financial Markets Association