



Australian Government  
The Treasury

**TSY/AU**

# Relief to Foreign Financial Service Providers

Consultation Paper

9 July 2021



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# Consultation Process

## Request for feedback and comments

Interested parties are invited to comment on the issues raised in this consultation paper.

While submissions may be lodged electronically or by post, electronic lodgement is preferred.

All information (including name and address details) contained in formal submissions will be made available to the public on the Australian Treasury website, unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain in confidence should provide this information marked as such in a separate attachment.

Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect confidentiality of your submission.

View Treasury's [Submission Guidelines](#) for further information.

### Closing date for submissions: 30 July 2021

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The principles outlined in this paper have not received Government approval and are not yet law. As a consequence, this paper is merely a guide as to how the principles might operate.

# Introduction

## Background

1. A person who carries on a financial services business in Australia must hold an Australian Financial Service Licence (AFSL) unless an exemption applies. AFSL holders are required to meet obligations set out in the *Corporations Act 2001* (Corporations Act).
2. In the 2021-22 Budget, the Government announced that it will consult on options to restore the previously well-established regulatory relief provided for Foreign Financial Service Providers (FFSPs) who are licensed and regulated in jurisdictions with comparable financial service rules and obligations. The relief would be limited to FFSPs that deal with wholesale clients and professional investors. The Government also announced that it would consult on options to create a fast-track licensing process for FFSPs who wish to establish more permanent operations in Australia.
3. Providing relief to FFSPs and encouraging their offering of financial products and services in Australia diversifies investment opportunities for Australian investors and attracts additional investment and liquidity to Australian markets. In particular, the Australian superannuation and retirement industry needs access to overseas financial markets to achieve their desired portfolio diversification.
4. Fast-tracking the licensing process for FFSPs aims to attract FFSPs who wish to establish more permanent operations in Australia, as it intends to shorten application timeframes and reduce barriers to entering the Australian market where relief is not available.
5. Since 2003, Australian Securities and Investments Commission (ASIC) provided two types of licensing relief to FFSPs in the form of 'sufficient equivalence relief' and 'limited connection' relief for the provision of financial services to wholesale clients. On 31 March 2020, ASIC repealed the sufficient equivalence relief and limited connection relief and replaced them with a foreign AFSL regime and a narrower funds management relief.

## Consultation objectives

6. Given FFSPs play a significant role in the Australian financial market, this consultation is designed to help assess the options available in providing licensing relief to FFSPs and options to fast-track the licensing process. The consultation also seeks views on any additional options that should be considered.
7. This consultation will also inform the Government on the regulatory, financial, business and community impacts of each policy option being canvassed in this paper. This will assist the Government to better assess the costs and benefits of each option before making a final decision on the form of FFSP relief to be provided and how best to fast-track the licensing process.

## FFSP relief

### FFSP relief before 31 March 2020

8. Since 2003, ASIC has provided sufficient equivalence relief and the limited connection relief to FFSPs. Both forms of relief allowed FFSPs to conduct their financial service business with Australian wholesale clients without the need to hold an AFSL.

#### Sufficient equivalence relief

9. In 2003 and 2004, ASIC granted relief that conditionally exempted FFSPs from the requirement to hold an AFSL when providing specified financial services in Australia when:<sup>1</sup>
- a) the financial services were provided to wholesale clients only;
  - b) the provision of the financial services by the FFSP is regulated by an overseas regulatory authority;
  - c) the regulatory regime overseen by the overseas regulatory authority is sufficiently equivalent to the Australian regulatory regime and covered the financial services which will be provided into Australia;
  - d) there are effective cooperation arrangements in place between the overseas regulatory authority and ASIC; and
  - e) the FFSP meets all the relevant conditions of relief contained in the relevant ASIC instruments.
10. Sufficient equivalence relief was granted with the aim of attracting additional investment and liquidity to Australian markets by addressing the potential duplicated regulatory burden arising from compliance with Australia's regulatory regime where FFSPs were already subject to equivalent regimes in their home jurisdictions.<sup>2</sup>

#### Limited connection relief

11. In 2003, ASIC provided relief to FFSPs from the requirement to hold an AFSL where the FFSP providing the financial services was:<sup>3</sup>
- a) not in Australia;
  - b) dealing only with wholesale clients; and
  - c) carrying on a financial services business in Australia only because the entity was engaging in conduct that was intended to induce, or was likely to induce, people in Australia to use the financial services it provides (see section 911D of the Corporations Act).
12. Limited connection relief was granted to ensure that infrequent, arms-length transactions by FFSPs with Australian wholesale clients would not require a licence where there is a limited connection between the FFSP and Australia.<sup>4</sup> There were also concerns that overseas counterparties to derivatives, foreign exchange transactions and providers of investment management services may be engaging in 'inducing' activities under section 911D of the Corporations Act when inducing wholesale clients in Australia to use their financial services. Without the limited connection relief,

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<sup>1</sup> ASIC, *CP 301: Foreign financial service providers*, 1 June 2018, paragraph 5. Note the Luxembourg instrument was made in 2016.

<sup>2</sup> ASIC, *CP 301: Foreign financial service providers*, 1 June 2018, paragraph 7.

<sup>3</sup> ASIC, *CP 301: Foreign financial service providers*, 1 June 2018, paragraph 9.

<sup>4</sup> ASIC, *CP 301: Foreign financial service providers*, 1 June 2018, paragraph 10.



these FFSPs would have been required to hold an AFSL when engaging in inducing activity even when they are not otherwise carrying on a financial services business in Australia.<sup>5</sup>

### FFSP relief between 31 March 2020 to 31 March 2023

13. Following the repeal of the sufficient equivalence relief and limited connection relief, ASIC implemented transitional arrangements to give FFSPs time to apply for and obtain an AFSL if required.
14. On 10 March 2020, ASIC announced that from 1 April 2020 FFSPs wanting to commence a financial services business in Australia were not eligible for the sufficient equivalence relief and FFSPs already relying on the relief have until 31 March 2022 to obtain a foreign or standard AFSL to remain in the Australian financial services market.
15. On 11 June 2021, ASIC announced that it would extend transitional relief for foreign financial services providers for 12 months until 31 March 2023 pending the outcome of the Government's consultation.
16. As such, the limited connection relief will now apply until 31 March 2023. From 1 April 2023, an FFSP will need to hold a foreign or standard AFSL to continue providing financial services to Australian wholesale clients if they are not eligible for other statutory exemptions or the funds management relief.

### FFSP relief and licensing after 31 March 2023

17. From 1 April 2023, an FFSP who previously relied on the sufficient equivalence relief will need to apply for and obtain a foreign or standard AFSL unless an exemption<sup>6</sup> or the funds management relief applies. From 1 April 2023, the funds management relief will be available for eligible FFSPs.
18. The funds management relief and foreign AFSL, discussed below, provide some design elements that have been considered in developing options for providing relief to FFSPs and fast-tracking the licensing process.

### Funds management relief

19. The funds management relief was created in part to replace the broader limited connection relief. The funds management relief is available to FFSPs that are only carrying on a financial services business in Australia because of the operation of section 911D of the Corporations Act and only applies to the provision of 'funds management financial services' to eligible Australian users.<sup>7</sup>
20. Funds management financial services are outlined as dealing with or providing advice in relation to financial products of offshore funds or in relation to providing portfolio management services by agreement with the eligible Australian user.<sup>8</sup> Eligible Australian users for the purposes of this relief include APRA-regulated bodies, responsible entities of a registered scheme, superannuation trustees, wholesale trustees, and exempt public authorities except local councils.<sup>9</sup>

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<sup>5</sup> ASIC, *CP 301: Foreign financial service providers*, 1 June 2018, paragraph 11.

<sup>6</sup> Examples of exemptions include those set out in *Corporations Regulations 2001* s 7.6.02AG, which includes exempting FFSPs that deal with professional investors in dealings with derivatives, foreign exchange contracts, carbon units, Australian carbon credit units or eligible international emission units.

<sup>7</sup> ASIC, *Regulatory Guide 176: Foreign financial service providers*, 10 March 2020, paragraph RG176.116.

<sup>8</sup> ASIC, *Regulatory Guide 176: Foreign financial service providers*, 10 March 2020, paragraph RG176.121.

<sup>9</sup> ASIC, *Regulatory Guide 176: Foreign financial service providers*, 10 March 2020, paragraph RG176.122.

21. The funds management relief requires that the FFSP meet the following conditions:<sup>10</sup>

- a) notifying ASIC when they intend to use the relief;
- b) notifying ASIC of its overseas home jurisdiction;
- c) confirming that the home jurisdiction is a signatory to the International Organisation of Securities Commissions (IOSCO) Multilateral Memorandum of Understanding Concerning the Consultation and Cooperation and the Exchange of Information (Multilateral MOU);
- d) providing consent for information to be shared between ASIC and the home jurisdiction regulator;
- e) complying with a written notice issued by ASIC to provide information on services provided;
- f) providing reasonable assistance to ASIC investigations;
- g) confirming there is a local agent appointed for the applicant;
- h) confirming the applicant does not have a place of business in Australia; and
- i) notifying ASIC if any of these details change.

### Foreign AFSL

22. The foreign AFSL regime was introduced through a legislative instrument<sup>11</sup> following the repeal of the sufficient equivalence relief. The foreign AFSL is only available to FFSPs that are authorised in a 'sufficiently equivalent' overseas regulatory regime to provide specified financial services and wish to provide those financial services to wholesale clients in Australia.<sup>12</sup> There are several conditions that an FFSP will need to meet to be eligible for a foreign AFSL.

23. The foreign AFSL holder is subject to most of the obligations and regulations of a standard AFSL holder. *Regulatory Guide 176 Foreign financial services providers* sets out the obligations under *Chapter 7 of the Corporations Act* that a foreign AFSL holder is exempt from on the basis that they are subject to sufficiently equivalent overseas regulatory requirements that would achieve similar regulatory outcomes to the exempted provisions:<sup>13</sup>

Provision	Description of exempted provision
s912A(1)(b), to the extent it requires compliance with reg 7.6.04(1)(a) and (d)	Obligations about notifying ASIC of events that may cause a material adverse change to financial position and maintaining records of training for representatives
s912A(1)(d)	Have adequate resources
s912A(1)(e)	Maintain the competence to provide the financial services
s912A(1)(f)	Ensure that representatives are appropriately trained
s912AAC	Meet minimum standards for custodial or depository service providers
s912AAD	Have agreements with sub-custodians to hold custodial property

<sup>10</sup> ASIC, *Regulatory Guide 176: Foreign financial service providers*, 10 March 2020, paragraph RG176.126.

<sup>11</sup> ASIC Corporations (Foreign Financial Services Providers—Foreign AFS Licensees) Instrument 2020/198.

<sup>12</sup> ASIC, *Regulatory Guide 176: Foreign financial service providers*, 10 March 2020, paragraph RG176.6.

<sup>13</sup> ASIC, *Regulatory Guide 176: Foreign financial service providers*, 10 March 2020, paragraph RG176.36, table 3 page 16.



Provision	Description of exempted provision
s912AC	Have adequate financial resources for custodial or depository service providers
All the provisions in Subdivs A and B, Div 2 of Pt 7.8, and Div 3 of Pt 7.8	Obligations about handling client money and client property when the sufficiently equivalent protections in the overseas regulatory regime apply to client money paid to, and client property held by, the foreign AFS licensee from a wholesale client in Australia relating to the exempt financial service
s991E	Obligations of licensees in relation to dealings with non-licensees (to the extent the financial product transaction is entered into or arranged outside Australia)
s991F	Dealings involving employees of licensees—if the foreign AFS licensee is only carrying on a financial services business in Australia because it carries on the business of providing eligible financial services under the instrument in Australia
s1017E	Obligations about dealing with money received for a financial product before the product is issued when sufficiently equivalent protections in the overseas regulatory regime apply to the money received from wholesale clients in Australia relating to the exempt financial service

## Options in establishing a framework for FFSPs

24. Stakeholder views are sought on the following three options which are aimed at reducing duplicate regulatory requirements and encourage greater engagement by FFSPs in the Australian market, while maintaining necessary protections.

### Option 1 – restore the previous relief

#### Option 1A

25. This option would restore the sufficient equivalence relief and limited connection relief as it applied before it was repealed on 31 March 2020. The sufficient equivalence relief would apply to FFSPs regulated by the United Kingdom, United States, Hong Kong, Singapore, Germany and Luxembourg.

#### Option 1B

26. This option would restore the sufficient equivalence relief as it applied before it was repealed on 31 March 2020 and continue the funds management relief in place of the limited connection relief for eligible FFSPs.

## Option 2 - FFSP relief for certain financial services provided to wholesale clients

27. This option would provide relief to FFSPs providing certain financial services to wholesale clients.<sup>14</sup> Wholesale clients comprise those that:

- a) invest or advise on a product that exceeds \$500,000;
- b) own net assets of \$2.5 million or has a gross annual income of over \$250,000 over two financial years as certified by an accountant;
- c) cover a range of institutional investors with particular criteria;
- d) owns a business with more than 20 employees, or more than 100 employees if the business manufactures goods;
- e) an AFSL holder has determined to be experienced in using financial services; or
- f) are professional investors as outlined below in paragraph 28.

28. A professional investor is a person who:

- a) is an AFSL holder;
- b) is a body regulated by APRA;
- c) is a registered entity within the meaning of the *Financial Sector (Collection of Data) Act 2001*;
- d) is a trustee within the meaning of the *Superannuation Industry (Supervision) Act 1993* and the fund, trust or scheme has assets of at least \$10 million;
- e) controls at least \$10 million in assets;
- f) is a listed entity or a related body corporate of a listed entity;
- g) is an exempt public authority;
- h) is a body corporate or unincorporated body that carries on a business of investment in financial products or invests funds received following an offer or invitation to the public; or
- i) is a foreign entity, either established or incorporated in Australia, and is covered by one of the previous items.

29. The financial services that would be covered under this option are any of the following provided in relation to a financial product, as long as the FFSP is licensed to do so in its home jurisdiction:

- a) providing financial product advice;
- b) dealing in a financial product;
- c) making a market for a financial product; or
- d) providing a custodial or depository service.

30. A financial product is any of the following:

- a) a derivative;
- b) a foreign exchange contract;
- c) a security;
- d) a debenture, stock or bond;
- e) a managed investment product;
- f) an interest in a managed investment scheme;
- g) a deposit taking facility;
- h) an eligible deposit product; or
- i) a facility for making non-cash payments.

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<sup>14</sup> *Corporations Act 2001* (Cth) s 761G, 761GA, *Corporations Regulations 2001* (Cth) Pt 7.1 Division 2.

31. This option would require FFSPs to be from one of the following jurisdictions and regulated by the relevant authorities. These jurisdictions have been assessed as being sufficiently equivalent to the Australian regulatory regime for the regulation of financial services:
- a) Denmark (regulated by the Danish Financial Supervisory Authority);
  - b) France (regulated by the Autorité des marchés financiers of France or the Autorité de contrôle prudentiel et de résolution of France);
  - c) Germany (regulated by the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin));
  - d) Hong Kong (regulated by the Securities and Futures Commission);
  - e) Luxembourg (regulated by the Commission de Surveillance du Secteur Financier);
  - f) Canada (regulated by the Ontario Securities Commission);
  - g) Singapore (regulated by the Monetary Authority of Singapore);
  - h) Sweden (regulated by the Finansinspektionen);
  - i) United Kingdom (regulated by the Financial Conduct Authority);
  - j) United States (regulated by the Commodity Futures Trading Commission, the Federal Reserve and the Office of the Comptroller of the Currency or the US Securities Exchange Commission).
32. FFSPs would need to notify ASIC of their reliance on this relief and comply with the conditions as outlined below in paragraph 34.

### Option 3 – FFSP relief for all financial services provided to wholesale clients

33. This option would provide FFSP relief to all financial services provided to wholesale clients. This option requires FFSPs to be regulated by one of the following overseas regulatory authorities as outlined in Option 2. FFSPs would need to notify ASIC of their reliance on this relief and would need to comply with the conditions as outlined in paragraph 34.

### Conditions to be attached to FFSP relief options 2 and 3

34. Stakeholder views are sought on the list of possible conditions below that could be attached to options 2 and 3:
- a) notifying ASIC when the FFSP is relying on the relief or ceases to use the relief;
  - b) applying to ASIC for approval to use the relief;
  - c) consenting to information sharing between ASIC and the FFSP's home jurisdiction regulator;
  - d) assisting ASIC in any supervision or investigation matters;
  - e) complying with directions from ASIC;
  - f) complying with information requests from ASIC within the specified time;
  - g) not dealing with unauthorised or unlicensed entities;
  - h) notifying ASIC of any changes to the FFSP or the home jurisdiction regulator that affect their eligibility for relief;
  - i) submitting to the jurisdiction of Australian courts;
  - j) comply with any orders of an Australian court;
  - k) complying with auditing and reporting requirements;
  - l) ensuring that financial services are provided efficiently, honestly and fairly;
  - m) applying protections for dealing with client's money and property;
  - n) having adequate conflict of interest arrangements in place;
  - o) having adequate risk management systems in place;
  - p) notifying clients when the FFSP is relying on the relief;
  - q) appointing a local agent for the FFSP;
  - r) ensuring representatives are appropriately trained;

- s) providing periodical information to ASIC including:
- i. the FFSP's fund or business type;
  - ii. detailed description of the intended business activity, market presence and client groups targeted in Australia;
  - iii. copy of the FFSP's constitution and/or articles of association;
  - iv. the FFSP's investment strategy;
  - v. the number of Australian clients;
  - vi. confirmation that financial services are only provided to wholesale clients or professional investors;
  - vii. certain financial statements that cover the financial services provided in Australia;
  - viii. assets under management (AUM) of Australian investors in funds;
  - ix. increase/decrease in AUM from Australian investors from prior reporting period;
  - x. dealings with derivatives;
  - xi. name of foreign legal entity adviser promoting fund(s) in Australia, including name of onshore Australian licensee where relevant;
  - xii. the agreement with a local agent;
  - xiii. annual compliance attestation;
  - xiv. liquidity terms of the fund; and
  - xv. for funds that offer liquidity, redemption information from the prior reporting period.
- t) breach reporting obligations, similar to that of AFSL holders;
- u) maintaining the relevant authorisation in the FFSP's home jurisdiction to provide the financial service they are providing in Australia;
- v) providing each of the financial services in Australia in a manner which would comply, so far as is possible, with the home jurisdiction regulatory requirements if the financial service were provided in the home jurisdiction under like circumstances;
- w) a condition that ASIC can notify the FFSP of any additional conditions it believes are necessary to address any concerns ASIC may have; and
- x) a condition that ASIC can exclude FFSPs from relying on the relief where it has concerns the FFSP is not fit to provide services to Australian clients, or where a provider is using relief in a manner the relief is not intended to be used.
35. If an FFSP breaches a condition of the relief or does not comply with a request or direction from ASIC, ASIC may determine that further conditions should be imposed or that the FFSP is no longer eligible to rely on the relief. To provide greater flexibility in being able to address breaches of conditions, consideration is being given to providing ASIC with the ability to apply to the court for an injunction and to negotiate an enforceable undertaking with the FFSP. Consideration will also be given to attaching civil penalties to breaches of some or all relief conditions similar to those that apply to breaches of AFSL licensing obligations.

Consultation questions

- Q1. What are the impacts or other considerations that may affect implementing each option?
- Q2. Which of the proposed options would be most effective in providing relief to FFSPs and why?
- Q3. Is there a specific need for the limited connection relief if option 2 or 3 is adopted?
- Q4. Are there other options for FFSP relief that should be considered?
- Q5. Is there any other FFSP relief offered in other jurisdictions that could serve as a model for Australia?
- Q6. What aspects of the sufficient equivalence relief, limited connection relief and funds management relief were effective and ineffective in providing relief to FFSPs and why?
- Q7. Are there other overseas regulatory authorities that should be considered for addition to the list under options 2 or 3?
- Q8. Which conditions in paragraph 34 should not be attached to FFSP relief and why?
- Q9. Should there be other consequences to a breach of relief conditions other than the FFSP relief no longer being available?
- Q10. What are the regulatory costs and benefits of each option proposed?
- Q11. If the conditions listed in paragraph 34 apply to FFSP relief under options 2 or 3, what would be the financial and regulatory impacts on FFSPs?

## Fast-tracking the licensing process for FFSPs

36. Encouraging FFSPs to offer financial products and services in Australia diversifies investment opportunities within Australian markets. Further, the Government identified as part of the Global Talent Attraction package that fast-tracking of financial service licences would encourage high-yield international business and exceptional talent to relocate to Australia.<sup>15</sup>
37. The Government recognises that there may be opportunities in the licensing process for fast-tracking of AFSL applications for FFSPs. A fast-tracked AFSL application process may shorten applications timeframes, reduce administrative burden, and encourage further engagement from FFSPs with the Australian market.
38. From 1 April 2020, unless an exemption or transitional relief applies, an FFSP entering the Australian market will need to apply for and obtain a foreign or standard AFSL. Those FFSPs that were relying on the sufficient equivalence relief before 31 March 2020 will have until 31 March 2023 to obtain a foreign or standard AFSL to continue their operations in Australia. FFSPs relying on the limited connection relief will also have until 31 March 2023 to obtain a foreign or standard AFSL to continue their operations with Australian clients.
39. Stakeholder views are sought on how best to facilitate FFSPs that wish to enter the Australian market and on how to fast-track the licensing process. The following options set out some ways as to how the licensing process can be fast-tracked for FFSPs.

### Option 1: Amend the fit and proper person test

40. This option would amend the law to provide ASIC with the discretion to determine whether a fit and proper person test is required for every relevant person listed in section 913BA of the Corporations Act.
41. Where a fit and proper person test is conducted, ASIC will have the discretion to rely on similar assessments by other regulators rather than be required by law to form their own assessment. This option recognises that some jurisdictions do not require fit and proper assessments or impose different requirements for FFSPs providing financial services to Australian wholesale clients.

### Option 2: Modified licensing regime for FFSPs dealing with wholesale clients

42. A modified licensing regime would apply to FFSPs that:
- a) are regulated by an overseas regulatory authority that is a signatory to the IOSCO multilateral MOU; and
  - b) provide financial services to wholesale clients in Australia.

Under this option, FFSPs could be exempt from some provisions relating to the licensing process or obligations in Chapter 7 of the Corporations Act. The basis of these exemptions would be that it is duplicative to impose Australia's licensing requirements in addition to what is required in the home jurisdiction. Stakeholder feedback is sought on what provisions should be exempted.

43. Conditions to a modified licensing regime for FFSPs could include:

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<sup>15</sup> Joint Media release of the Treasurer and Assistant Treasurer, Attracting Global Talent and Business to Capitalise on Australia's Economic Position, 11 May 2021 <<https://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/media-releases/attracting-global-talent-and-business-capitalise>>.



- a) the FFSP must carry on a business in the relevant foreign jurisdiction;
- a) unless the FFSP is a body corporate, it must have an agent appointed at the time it purports to rely on the relief and not fail to have an agent for any consecutive period of 10 business days;
- b) the FFSP must reasonably believe that it would not contravene any laws of its home jurisdiction relating to the provision of financial services if it were to provide the wholesale financial service in its home jurisdiction;
- c) the FFSP must notify ASIC, as soon as practicable and in any event within 15 business days after it becomes aware or should reasonably have become aware, and in such form if any as ASIC may from time to time specify in writing, of the details of:
  - i. each significant change to, including the termination of, the FFSP's relevant registration or authorisation in the FFSP's home jurisdiction;
  - ii. each significant exemption or other relief that the FFSP obtains from the regulatory requirements in its home jurisdiction; and
  - iii. each significant investigation, enforcement or disciplinary action undertaken by any overseas regulatory authority against the FFSP in a foreign jurisdiction in relation to financial services provided by the FFSP in that jurisdiction.

### Option 3: Provide automatic licensing relying on an overseas licence held by the FFSP

44. This option would grant an AFSL to FFSPs that provide appropriate evidence to demonstrate that the FFSP:

- a) is regulated by an overseas regulatory authority that is an IOSCO board member;<sup>16</sup>
- b) holds an existing licence and is specifically authorised to provide the financial services intended to be provided in Australia; and
- c) will just provide financial services to wholesale clients in Australia.

FFSPs would be subject to all obligations that apply to a holder of a standard AFSL and be subject to the following conditions:

- a) the FFSP must carry on a business in the relevant foreign jurisdiction;
- b) unless the FFSP is a body corporate, it must have an agent appointed at the time it purports to rely on the relief and not fail to have an agent for any consecutive period of 10 business days;
- c) the FFSP must reasonably believe that it would not contravene any laws of its home jurisdiction relating to the provision of financial services if it were to provide the wholesale financial service in its home jurisdiction;
- d) the FFSP must notify ASIC, as soon as practicable and in any event within 15 business days after it becomes aware or should reasonably have become aware, and in such form if any as ASIC may from time to time specify in writing, of the details of:
  - i. each significant change to, including the termination of, the FFSP's relevant registration or authorisation in the FFSP's home jurisdiction;
  - ii. each significant exemption or other relief that the FFSP obtains from the regulatory requirements in its home jurisdiction; and
  - iii. each significant investigation, enforcement or disciplinary action undertaken by any overseas regulatory authority against the FFSP in a foreign jurisdiction in relation to financial services provided by the FFSP in that jurisdiction.

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<sup>16</sup> IOSCO, 'IOSCO board' <[https://www.iosco.org/about/?subsection=display\\_committee&cmtid=11](https://www.iosco.org/about/?subsection=display_committee&cmtid=11)>

### Consultation questions

- Q12. Other than the fit and proper test, are there other requirements that may require amendments to fast-track the licensing process; what barriers to entry does these requirements pose?
- Q13. As requested in paragraph 42, please provide a list of provisions that should be exempted under a modified licensing regime and explain the basis for the exemption.
- Q14. Should any additional conditions be required for an FFSP to apply for an automatic licence?
- Q15. Are there other ways licences for FFSPs could be fast-tracked?
- Q16. Are there licensing processes used by other jurisdictions that could serve as a model for Australia?
- Q17. What are the financial costs and regulatory impacts of complying with all the AFSL obligations under option 3?