

**MEMO# 31845**

July 10, 2019

# **ASIC Consultation on Foreign Financial Services Providers Licensing Regime; Member Call on Monday, July 15 at 11 a.m. EST**

[31845]

July 10, 2019 TO: ICI Global Pacific Chapter

ICI Global Regulated Funds Committee RE: ASIC Consultation on Foreign Financial Services Providers Licensing Regime; Member Call on Monday, July 15 at 11 a.m. EST

On July 3, the Australian Securities and Investments Commission (ASIC) released a consultation on relief for foreign providers of funds management services to Australian professional investors.<sup>[1]</sup> This consultation follows ASIC's June 2018 consultation on foreign financial services providers (CP 301), in which ASIC consulted on proposals to repeal the "sufficient equivalence" relief and the "limited connection" relief and implement a foreign Australian Financial Services (AFS) licensing regime.<sup>[2]</sup>

**Comments are due to ASIC by August 9, 2019. We will hold a call to discuss the consultation on Monday, July 15, at 11 a.m. EST.** Please rsvp to [jean.zadeh@ici.org](mailto:jean.zadeh@ici.org) if you plan to participate.

US Toll-Free Number: 866-692-3582

US Toll Number: 1-517-466-2232

London Toll Free Number: 0808-238-6019

Passcode: 5735810

ASIC's proposals are briefly summarized below.

## **New Funds Management Relief and Repeal of "Limited Connection" Relief**

ASIC is proposing to exempt foreign financial services providers (FFSPs) from the requirement to hold an AFS license to provide a "funds management financial service" to professional investors in Australia. This relief is subject to a cap on the scale of those activities and certain conditions that apply to the operation of the relief.

ASIC further proposes to repeal the "limited connection" relief, as it proposed in CP 301. However, ASIC will extend the "limited connection" relief, which is due to expire on

September 30, 2019, until March 31, 2020, while it consults on the funds management relief and repeal of the “limited connection” relief. Should ASIC proceed with adopting its proposals, ASIC proposes to further extend this relief until September 2020, to allow FFSPs sufficient time to obtain an AFS license if needed.

## **Reverse Solicitation**

ASIC is seeking information from industry on the situation where an Australian professional client initiates an inquiry or request to an FFSP operating outside of Australia, referred to as “reverse solicitation.” At this time, ASIC has declined to grant relief in this situation because it lacks sufficient information about how this relief would be used and has concerns about monitoring compliance with the conditions of such relief.

## **Foreign AFS License and Transition Period for “Sufficient Equivalence” Relief**

ASIC will be implementing the foreign AFS licensing regime for FFSPs relying on the licensing relief known as “sufficient equivalence,” as was proposed in CP 301. As part of CP315, ASIC has released a draft updated RG 176, which provides guidance on how foreign providers may apply for the foreign AFS license. ASIC has proposed a more streamlined application process compared to an application for a standard license, and applicants will need to provide some, but not all, of the standard licensing information.

ASIC will extend the “sufficient equivalence” relief until March 31, 2020, to allow foreign providers to engage with the details of the new guidance. The new foreign AFS licensing regime will begin on April 1, 2020. FFSPs currently relying on the “sufficient equivalence” relief will have a transition period of 24 months from April 1, 2020, to comply with the new regime, including for example to submit an application for a foreign AFS license and have the application assessed by ASIC.

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### **endnotes**

[1] The consultation is *available at* <https://asic.gov.au/regulatory-resources/find-a-document/consultation-papers/cp-315-foreign-financial-services-providers-further-consultation/>.

[2] For a description of ICI Global’s response to CP 301, see Memorandum No. 31308, dated August 1, 2018, *available at* <https://www.iciglobal.org/iciglobal/pubs/memos/memo31308>; ICI Global’s letter responding to CP 301 is *available at* <https://www.iciglobal.org/pdf/31308a.pdf>.