



MEDIA RELEASE

AFMA supports reform of cross border financial regulation

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The Australian Financial Markets Association (AFMA) has responded to the Treasury consultation paper on regulatory relief for Foreign Financial Service Providers (FFSPs) of wholesale services. AFMA supports the Government's decision to consider options for FFSP regulation that would restore previous relief outcomes. This would benefit Australian businesses dealing with financial entities located overseas to meet their growing investment diversification and financing needs.

The regulatory protections for retail clients, including ASIC licensing of related service providers, are outside scope of the FFSP regime and there is no change in this respect.

AFMA believes the law should more systematically address the extraterritorial overreach of Australian regulation for wholesale financial services. Requiring overseas financial entities doing business in their domestic market to be licensed by ASIC would result in unnecessarily restrictive and high cost regulation, create a barrier to doing business with Australians and harm Australia's competitiveness.

AFMA proposes rationalising the regulation for FFSP wholesale business by changing law to:

- i. Remove financial services provided by FFSPs to 'professional investors' (broadly financial entities and large companies) from the scope of Australia's financial services licensing regime.*

This would treat securities dealings and services in the same manner as foreign exchange and derivatives business under the existing law. It would also recognise the ability of financial institutions, large investors and corporates to protect their own commercial interests.

- ii. Implement a streamlined and limited licence relief for FFSP financial services provided to wholesale clients who are not professional investors.*

The relief would improve on ASIC's pre-March 2020 FFSP arrangements by introducing:

- New conditions to strengthen ASIC's regulatory capability including, for example, an obligation on entities relying on the relief to notify ASIC of this;
- Sufficient equivalence recognition that is broader and agile, in line with IOSCO principles on cross-border harmonisation, to avoid duplication of regulation when the home regulator's oversight already provides equivalent regulatory outcomes.

These measures would better target regulation; curtailing unnecessary intervention into large business dealings and strengthening ASIC's hand in relation to the supervision of foreign providers dealing with relevant wholesale clients under the licensing relief. The outcomes would support better access and more competitive services for Australian users of global markets.

This approach would be a positive response by Australia to the G20 commitment in 2019 to reduce harmful duplication of national regulation that impedes cross-border financial services business.

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Notes for Editors:

The Australian Financial Markets Association (AFMA) is an industry association that promotes efficiency, integrity and professionalism in Australia's financial markets and provides leadership in advancing the interests of all market participants. These markets are an integral feature of the economy and perform the vital function of facilitating the efficient use of capital and management of risk. AFMA member firms perform a range of important roles within these markets, including financial intermediation and market making.