

14 January 2022

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

By email: FFSP@treasury.gov.au

Dear Sir/Madam,

Consultation – Exposure Draft Legislation, Relief for Foreign Financial Service Providers

The Australian Investment Council welcomes the opportunity to contribute to the Treasury's consultation on *Exposure draft legislation: Relief for Foreign Financial Service Providers (FFSPs)*. This follows the Council's submission to the Treasury on 30 July 2021, on the proposed changes to [Relief to Foreign Financial Services Providers](#).

As the industry association for private capital in Australia, the Council is supportive of policy initiatives and reforms that help ensure our domestic economy is competitive, innovative, and able to support Australia now and into the future. In particular, the Council encourages legislation and regulation which facilitates an investment regime that ensures investment flows remain open, transparent, and stable, to enable private capital investment to continue to support portfolio companies during this time of heightened uncertainty.

Private capital investment has played a central role in the growth and expansion of thousands of businesses and represents a multi-billion-dollar contribution to the Australian economy each year. Our members are the standard-bearers of professional investment and include private equity (**PE**), venture capital (**VC**) corporate venture capital (**CVC**) and private credit (**PC**) funds, alongside family offices and institutional investors such as superannuation and sovereign wealth funds, as well as leading financial, legal, and operational advisers. Our members include both Australian domestic and offshore-based firms as well as leading financial, legal, and operational advisers.

As a net importer of capital, efficient access to foreign capital is vitally important for enabling billions of dollars of investment capital to flow into Australian businesses. While the private capital industry currently has more than \$13 billion in available capital to support current portfolio companies, the sector's ability to fund new investments, now and over the coming years, will be increasingly dependent on inbound capital from offshore investors.

Given the impact of the COVID pandemic and the uncertain times that lay ahead, and as a net importer of capital, Australia's economy relies on a dependable and steady flow of foreign capital to drive economic growth and job creation. At this critical juncture, it is vitally important for our economic recovery, and Australian jobs, that businesses can quickly and efficiently access capital from domestic as well as offshore investors.

Supportive of the ED Legislation

Accordingly, the Council is supportive of the exposure draft legislation in providing a framework for foreign financial services providers to promote diversified investment opportunities for Australian Investors and to continue to encourage of flow of inbound capital.



Comparable Regulators

The Council specifically welcomes the recognition of comparable regulators where the FFSP is providing financial services to wholesale clients. While it is proposed the Minister will determine which regulators are comparable, the Council recommends that jurisdictions such as Japan, New Zealand and Switzerland, – which were previously excluded from the “sufficiently equivalent” list – are amongst regulatory regimes recognised when the legislation is finalised.

Consideration of regulatory regimes that are clear and transparent with adequate oversight and which are broadly consistent with the Objectives and Principles of Securities Regulation developed by the International Organization of Securities Commissions, are also supported by the Council as important points of reference for determining comparable regulatory regimes.

Conditions about notifying or assisting ASIC

The Council commends streamlined business processes and the reduction of red tape and is therefore supportive of the process of notifying ASIC for certain licensing exemptions for FFSPs. However, we recommend that where sufficient equivalence relief or professional investor exemption notifications have previously been submitted and approved by ASIC, that the process of notification for these cohorts is simplified where there have been no material changes. We also recommend that submissions be capable of being completed electronically.

If you have any questions about specific points made in our submission, please do not hesitate to contact me or our policy team by email at policy@aic.co.

Yours sincerely

Yasser El-Ansary
Chief Executive