

ASIC EXTENDS FOREIGN FINANCIAL SERVICE PROVIDER RELIEF TO LUXEMBOURG

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Legal Briefings - By **Fiona Smedley** and **Steven Rice**

ASIC has granted conditional relief to financial services providers regulated in Luxembourg who wish to provide financial services to wholesale clients in Australia.

This relief is set out in [ASIC Corporations Instrument \(CSSF-Regulated Financial Services Providers\) 2016/1109](#).

The relief has been granted in a similar form and for the same time period as ASIC Class Order [CO \[03/1099\]](#), which provides an exemption for UK financial services providers from the requirement of holding an AFS licence.

Under the relief, a Luxembourg fund manager (**LFM**) can seek an exemption from holding an AFS licence if it holds a current licence or authorisation which has been granted by the Commission de Surveillance du Secteur Financier (**CSSF**), the financial services regulator in Luxembourg, and if the LFM is:

- a management company, which can manage undertakings for collective investment in transferable securities (**UCITS**) established under Part I of the Law dated 17 December 2010 relating to the undertaking for collective investment of Luxembourg (**2010 Law**) under to Chapter 15 of the 2010 Law; or
- an investment company established under Part I of the 2010 Law that has designated itself as “self-managed”.

The relief only applies in respect of providing financial product advice, dealing in a financial product, making a market for a financial product or providing a custodial or depository service in respect of the following financial products:

- eligible deposit products;
- derivatives;
- foreign exchange contracts;
- securities;
- debentures;
- stocks or bonds issued by a government;
- managed investment products; and
- interests in a managed investment scheme that is not required to be registered under Chapter 5C of the *Corporations Act 2001* (Cth).

ASIC has recently extended the relief provided to other foreign financial service providers (**FFSP**) under similar Class Orders including [CO \[03/1099\]](#). This was to enable ASIC to review and consult on the policy settings underlying its relief in relation to FFSPs). ASIC released Consultation Paper 268 *Licensing relief for foreign financial services providers with limited connection to Australia* ([CP 268](#)) to seek feedback on these policy settings. Further information on ASIC's consultation is available at Herbert Smith Freehills [legal briefing](#).

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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