

GET READY FOR THE FOREIGN FINANCIAL SERVICES PROVIDER (FFSP) REFORMS

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Legal Briefings - By **Fiona Smedley and Nick Alexander**

Get ready for an update from ASIC on the expiry of the foreign financial services provider exemptions and the introduction of a new foreign AFSL regime, expected to be published in March 2020.

BACKGROUND

In July 2019 the Australian Securities & Investments Commission (**ASIC**) released *Consultation Paper 315 Foreign financial services providers* ([CP 315](#)), consulting on:

1. its new licensing framework for foreign financial service providers (**FFSPs**) with wholesale clients in Australia (referred to as the **foreign AFSL**); and
2. a proposal to replace the limited connection exemption for offshore FFSPs with a new 'funds management exemption' from 31 March 2020 (**funds management exemption**). The funds management exemption was proposed to be available only to FFSPs that provide a narrow range of funds management or portfolio management services to a specified subset of wholesale clients, subject to a cap on the scale of activities in Australia (measured by aggregated annual revenue) and a range of other conditions.

We provided a summary of the proposed reforms and the proposed timetable to terminate the FFSP 'passporting exemptions' and 'limited connection exemption' and the transitional periods for those terminating exemptions in our article of [July 2019](#).

UPDATE EXPECTED SOON

ASIC has not made any public announcements on the proposed FFSP reforms since it closed the CP 315 consultation.

However, we expect that ASIC will publish a further update in March 2020 and that that update will contain:

- ASIC's report on the submissions it received in response to CP 315. This may include publishing copies of any non-confidential submissions;
- a final version of the updated RG 176;
- a final version of the funds management exemption (ie *ASIC Corporations (Foreign Financial Services Providers—Funds Management Financial Services) Instrument 2019/XXX*); and
- a final version of the foreign AFSL regime (ie *ASIC Corporations (Foreign Financial Services Providers—Foreign AFS Licensees) Instrument 2019/XXX*); and
- guidance on how to apply for a foreign AFSL.

We expect that this update will identify what changes ASIC intends to make to the consultation proposals it made in CP 315.

TIMING

In the meantime, here are the key dates you should keep in mind:

- 31 March 2020—the proposed date that the passporting exemptions and limited connection exemption will cease;
- 1 April 2020—the proposed date that the new foreign AFSL regime commences and the 24 month transition period begins;
- 30 September 2020—the proposed date that the 6 month transition period for the limited connection exemption will expire; and
- 1 April 2022 —the proposed date that the 24 month transition period for the new foreign

AFSL regime expires.

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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