

# SURPRISE LICENSING EXEMPTION DEVELOPMENTS FOR FOREIGN FINANCIAL SERVICE PROVIDERS (FFSPS)

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Legal Briefings - By **Fiona Smedley**

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## BACKGROUND TO THE AUSTRALIAN FINANCIAL SERVICES REFORMS FOR FOREIGN FINANCIAL SERVICE PROVIDERS

On 11 March 2020, after several years of consultation, ASIC confirmed the finalised foreign financial service provider (**FFSP**) licensing reforms, to take effect from 31 March 2022, as discussed in our article: [And Finally...The Foreign Financial Service Provider \(FFSP\) Licensing Reforms Are Confirmed.](#)

Those reforms included:

1. the termination of the 'limited connection' and 'passporting' exemptions for FFSPs, with effect from 31 March 2022;
2. the introduction of a new funds management exemption, to effectively replace the limited connection exemption; and
3. the introduction of the new foreign Australian financial services licence (**foreign AFSL**) framework for FFSPs regulated in a 'sufficiently equivalent' manner overseas, to enable them to provide financial services to wholesale clients in Australia. FFSPs regulated by certain regulators in the US, Singapore, Hong Kong, Germany, Luxembourg, UK, Denmark, Sweden, France and Canada were eligible to apply for a foreign AFSL and others were to be considered on a case by case basis.

Over the last year, FFSPs have been considering their options and preparing for the 31 March 2022 changes, including preparing applications to apply for foreign AFSLs.

## WHAT HAS CHANGED?

In the Federal budget last night, the Federal Government announced that:

1. it is proposing to establish a 'more efficient' licensing regime for FFSPs;
2. it will *consult* on options to restore previously well-established regulatory relief for FFSPs who are licensed and regulated in jurisdictions with comparable financial service rules and obligations, or have limited connection to Australia, and that deal with wholesale clients and professional investors, from holding an Australian financial service license, in order to reduce duplicate regulatory requirements; and
3. it will also *consult* on options to create a fast-track licensing process for FFSPs who wish to establish more permanent operations in Australia and that fast-tracking is intended to shorten application timeframes and reduce barriers to entering the Australian market.

## WHAT HAPPENS NEXT?

We will be engaging with Treasury and ASIC to understand:

1. the timing and scope of these consultations;
2. the extent of the 'restoration' to be consulted on (and what conditions may apply to it); and
3. whether the scheduled 31 March 2022 termination of the limited connection and passporting exemptions will be deferred while the consultations take place.

Given the number of foreign AFSL applications made and about to be made by FFSPs, the detail and timing of any deferral and regulatory changes following the consultation is needed urgently so that FFSPs can assess what this means for them and their foreign AFSL plans.





## 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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