TPP IMPACT: FINANCIAL SERVICES

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Legal Briefings – By **Tony Damian**, **Nicole Backhouse** and **Donald Robertson**

The detailed terms of the Trans Pacific Partnership (TPP) were released on 5 November 2015. In general terms for financial services business, the TPP is intended to encourage enhanced efficiency and competition across the region as well as providing opportunities for the introduction of new products and expanding opportunities for funding major projects.

As the TPP still needs to receive parliamentary approval from each of the member nations, we expect that the full effect of the TPP will take some time to be made clear and that some revision to its terms may be necessary. Notwithstanding that, here are our three key predications for what the TPP could mean for financial service providers (FSPs).

- **Expansion of markets**: When in force in full, the financial services chapter of the TPP has the potential to significantly reduce regulatory barriers for FSPs to enter new markets and may lead to the creation of a broader regional market for financial services. Nonetheless, some regulatory constraints will remain – member nations will continue to be able to have nationally based prudential and monetary policies potentially resulting in continued preferential treatment for national banks.

- **Harmonisation of regulation**: The TPP has been positioned as being more than just a free trade agreement – it is also seeking to set the standard for consistent and transparent regulatory systems. For FSPs, especially banks, we expect that the TPP will provide further support to current international efforts to achieve greater consistency across financial systems regulation through BASEL III, the G20 and the Financial Stability Board, rather than being an agreement which is intended to set up a separate regional framework for financial services regulation.

- **Certainty of investments**: One of the most contentious aspects of the TPP has been the inclusion of Investor States Dispute Settlement (ISDS) provisions. While there is a lot of detail in the TPP about the ISDS provisions and there is complexity because members nations have used opt out provisions in respect of some areas where the ISDS cannot be used to challenge regulation or government action, there is real potential that the existence of these provisions will provide greater certainty for investment in the region. In particular, we see the ISDS provisions providing some comfort to sponsors, investors and financiers in major projects and large scale resource developments in developing nations as these provisions may help to mitigate risks of government action and regulation to retrospectively re-write the terms and requirements for such projects.

For more information or if you have any questions please contact the sector experts below.

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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