

3 August 2018

Mr Alan Worsley
Senior Specialist, Strategic Policy
Australian Securities and Investments Commission
Level 5, 100 Market Street
SYDNEY NSW 2000
AUSTRALIA

Email: policy.submissions@asic.gov.au

Dear Mr Alan Worsley

Re: ASIC Consultation Paper 301 – Foreign Financial Services Providers

Asia Securities Industry & Financial Markets Association (ASIFMA)¹ would like to thank you for the opportunity to provide feedback on the ASIC Consultation Paper 301 (the “Consultation Paper”).

We had liaised with the Australian Financial Markets Association (“AFMA”) on the Consultation Paper and had the opportunity to review and consider AFMA’s responses, dated today, to the Consultation Paper. We would like to express our support for AFMA’s responses and would like to endorse their submission.

In particular, we would like to re-emphasise the following:

- A) The removal of the existing relief (both the sufficient equivalence class orders and the limited connection class order), to be replaced by licensing requirements, risks a reduction in competition in financial services and a reduction in access to products and services available to Australian customers, including corporates requiring access to offshore wholesale funding markets. In particular, the limited connection class order promotes certainty for offshore entities that often have a very limited connection with Australia and facilitates efficient operations in a global market environment.
- B) Given that the financial services global entities provide to Australian clients are only provided to wholesale clients, and for the most part, professional investors, we believe that a lighter touch form of regulation is sufficient to achieve an appropriate level of investor protection for wholesale clients. If

¹ ASIFMA is an independent, regional trade association with over 100 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative and competitive Asian capital markets that are necessary to support the region’s economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

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ASIC's primary concern is its regulatory reach over FFSPs and ability to take action including enforcement if needed, then we suggest there are other mechanisms to deal with this including imposing additional conditions to the existing relief, enhanced breach reporting obligations, further requirements to comply with ASIC directions, audit requirements, and narrowing the scope of the available relief.

- C) Despite our strong views to the contrary, in the event that a foreign AFSL is introduced, where providers have existing Australian clients who have invested into financial products (for example, foreign issued and regulated managed investment schemes) under either the sufficient equivalence class order and/or the limited connection class order, there should also be some grandfathering relief provided to such persons for the ongoing provision of financial services related to the foreign product they are invested in.

We look forward to hearing from you. Please kindly contact Patrick Pang [REDACTED] or Timothee Bihet [REDACTED].

Yours sincerely

A handwritten signature in black ink, appearing to read 'Patrick Pang', is centered within a light gray dotted rectangular box.

Patrick Pang
Managing Director and Head of Fixed Income and Compliance
ASIFMA