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By email
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Alan Worsley
Senior Specialist, Strategic Policy
Australian Securities and Investments Commission
Level 5
100 Market Street
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Dear Alan

Submission on ASIC Consultation Paper 301: Foreign Financial Service Providers (CP 301)

Baker McKenzie appreciates the opportunity to comment on the proposals of the Australian Securities & Investments Commission (**ASIC**) in CP 301.

We regularly advise foreign financial services providers (**FFSPs**) on Australian licensing and regulatory issues associated with providing financial services in Australia and act for Australian investors engaging with FFSPs.

The views expressed in this submission are ours alone, and do not necessarily reflect the views of our clients.

1. Summary

1.1 Regarding sufficient equivalence relief for FFSPs, our view is that the present regulatory framework works well and should be maintained. There does not appear to be any material reason for the repeal of a fundamental part of the Australian financial services regime that enables Australian investors to have access to the world's best financial services providers at minimal cost for those providers, and consequently their clients.

1.2 We do not support the repeal of the limited connection relief. In our view, it provides a valuable service in allowing overseas FFSPs, that are not carrying on a business in Australia, to market their services to wholesale Australian clients. This allows wholesale Australian clients to have access to the best financial services providers in the world and allows them to invest for the betterment of Australians.

1.3 In relation to both proposals, our view is that the compliance costs for FFSPs and their investors would be substantial, and this would limit the ability of Australian investors to obtain access to the world's best financial services providers.

1.4 In the event that ASIC does consider that changes to either the limited connection relief or the sufficient equivalence relief are required, ASIC should exempt FFSPs that deal solely with Australia's sophisticated institutional investors, such as superannuation funds and government-managed funds. These funds require access to the best investments in the world, at the lowest cost, and have the financial capability to protect their own interests in the event of disputes arising.

2. Sufficient equivalence relief

2.1 In our view the present sufficient equivalence regulatory framework works well and should be maintained.

2.2 There does not appear to be a material reason for the repeal of a fundamental part of the Australian financial services regime that enables Australian investors to have access to the world's best financial services providers at minimal cost for those providers, and consequently their clients.

2.3 To the extent that, in ASIC's view, changes to the sufficient equivalence regime are required to better protect financial consumers our view is that such changes may be made by modifying the existing structure, and if necessary, adding additional conditions to the relevant relief instruments, rather than by requiring FFSPs to be licensed.

2.4 In addition, we note that at present, there is no public register of FFSPs relying on the relevant relief instruments. To promote transparency, we think ASIC's register should be public and searchable. We appreciate that to do this to the extent of the current licensee and authorised representative register would impose significant information technology costs on ASIC. In our view, making a Microsoft Excel spreadsheet, or something similar, publicly available would allow counterparties to easily determine the entities relying on the sufficient equivalence relief.

3. Limited connection relief

3.1 We do not support the repeal of the limited connection relief. In our view, it provides a valuable service in allowing overseas FFSPs, that are not carrying on a business in Australia, to market their services to Australian clients. This allows Australian clients to have access to the best financial services providers in the world and investment for the betterment of Australians.

3.2 In our view, the costs of adopting this approach, for business, would be substantial and may cause entities to withdraw or not enter the Australian market. As a consequence the Australian market would be deprived of the opportunity to interact with those entities.

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4. Sophisticated institutional investors

4.1 As of 2017, Australia possesses the fourth largest pension (superannuation) system in the world.[1] As well as having such a sizeable pension system, Australia boasts a number of substantial government-managed funds that invest offshore.

4.2 A cursory glance at the annual reports of most Australian superannuation funds illustrates the volume of investment made by Australian institutional investors across the world, and demonstrates that Australian institutional investors have a heavy reliance on access to international markets.

4.3 Our experience is that, despite possessing world-class fund managers and financial services providers, the breadth of experience of Australian financial services providers is not always sufficient for Australian institutional investors, especially when they are seeking to invest outside of Australia. Australian institutional investors want to harness the best the world has to offer with regard to choice of financial services providers, and it is not prudent or (in the case of superannuation funds) in members' interests, to limit investments primarily to those provided by Australian managers.

4.4 We think, in this respect, that ASIC could implement an explicit distinction between wholesale clients (such as high net-worth individuals) and large, sophisticated institutional investors (such as superannuation funds and government-managed funds).

4.5 For sophisticated institutional investors that do not rely on ASIC's consumer protection function, it is difficult to see what value regulating the providers of financial services to them would have. Large, sophisticated investors have the capacity to undertake comprehensive due diligence relating to potential investment managers and partners and have the ability to absorb losses in the event that losses do arise. Furthermore, such investors have the capacity to protect themselves when investing offshore by negotiating appropriate terms in investment management agreements and fund documentation to protect their own interests, and are also not reliant on ASIC's regulation of those providing financial services to them. Finally, such investors have the financial capacity to commence legal or regulatory action themselves, and do not rely on ASIC in the same manner that individual investors may.

4.6 Further to this, if a large FFSP were required to establish a presence in Australia beyond that required under the sufficient equivalence relief, it is likely that they would do so by setting up a foreign subsidiary with only the required financial resources. This would leave Australian institutional investors having to accept the risk of contracting with an Australian party with limited financial resources (when compared to its foreign parent or investment manager) or expend significant resources negotiating parent guarantees.

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[1] Edmund Tang, *Australia's US$1.6 trillion pension (superannuation) system is the fourth largest in the world)* (15 February 2017) Australian Trade and Investment Commission (https://www.austrade.gov.au/News/Economic-analysis/australias-us1-6trillion-pension-superannuation-system-is-the-fourth-largest-in-the-world).

4.7 For the reasons stated in this section 4, it is our strong view that ASIC should exempt from regulation those entities that rely on either the sufficient equivalence relief or the limited connection relief and deal solely with Australia's institutional investor population. Such an exemption could be crafted around the present professional investor definition provided for in the *Corporations Act 2001* (Cth) (**Corporations Act**). Alternatively, it could be crafted around a monetary amount (e.g., an exemption for those who only deal with Australian parties with net assets of at least $500 million), or by reference to the status of the counterparties, such as by specifying superannuation and government-managed funds. Such an approach would be in keeping with the idea that certain entities may protect themselves when investing.

4.8 The advocated approach described in paragraph 4.7 would not be to the detriment of domestic Australian providers, and would not leave those providers at a competitive disadvantage. Australian financial services providers are used extensively by Australian institutional investors, but operators relying on the relevant FFSP relief operate primarily in different markets. Australian licensees provide access to Australian investments, and institutional investors do not rely on FFSPs to invest in Australia. Rather, institutional investors use FFSPs to invest in global opportunities that the Australian market does not provide.

5. Questions posed in CP 301

5.1 We have set out our detailed responses to the questions in CP 301 in the annexure.

We would welcome the opportunity to discuss our submissions in greater detail.

Yours sincerely

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Appendix – Response to questions in CP 301

Section C: Proposal to repeal the sufficient equivalence relief and allow FFSPs to apply for a foreign AFS licence	
C1Q1	**Do you agree with our proposal to repeal the sufficient equivalence relief and individual relief for FFSPs? If not, why not? Please be specific in your response.**
	We do not agree. The sufficient equivalence relief forms a vital part of the Australian regulatory landscape and plays a vital role in ensuring Australian investors have access to world-class financial services providers. Further to this, there has been no demonstrable abuse of the relief having occurred. In particular, we note that the enforceable undertakings entered into by ASIC with Barclays and JP Morgan entities referred to in CP 301 related to repeated failures to comply with the disclosure conditions of the sufficient equivalence relief. While this is unacceptable and ASIC has rightly sought compliance from the parties involved, it does not evidence widespread abuse of the relief or that investors are being left "worse off" for having dealt with an FFSP. To the extent that ASIC is concerned with non-compliance with the FFSP regime, there are presently mechanisms in place with which such non-compliance may be dealt with. ASIC may, for instance, notify an FFSP that it is no longer entitled to rely upon the relevant ASIC instrument. This effectively bans the FFSP from providing financial services without an Australian Financial Services (**AFS**) licence. ASIC may also address perceived shortcomings relating to the sufficient equivalence relief by imposing additional conditions on the relief, as ASIC considers appropriate. The fundamental change to the regulatory framework being proposed has not been appropriately explained. We are of the view that the sufficient equivalence relief works well and should be maintained, subject to any modifications ASIC may wish to make to address the shortcomings it has identified.
C2Q1	**Do you agree with our proposal to implement a modified AFS licensing regime by modifying the application of certain legislative requirements to sufficient equivalence FFSPs? If not, why not? Please be specific in your response.**
	We do not agree, for the reasons outlined above in response to C1Q1. In our view, the existing sufficient equivalence framework works well and does not require major modifications.

C2Q2	**If you are a sufficient equivalence FFSP, what would be the impact of introducing this modified AFS licensing regime on your business activities in Australia? Please be specific in your response, and include an itemised breakdown of:** **(a) projected costs (per annum) for applying for and maintaining an ordinary AFS licence;** **(b) projected costs (per annum) for applying for and maintaining the proposed foreign AFS licence; and** **(c) any relevant costs at the entity-specific level.**
	While not applicable to us directly, costs would be significant for clients seeking to obtain a regular AFS licence or foreign AFS licence. We do not expect the difference between these amounts to differ greatly. At present, the cost of applying for an AFS licence ranges between $50,000 and $100,000. We would expect that in the case of foreign AFS licence applicants, the costs would be at the higher end of this range, as the applicants will need to familiarise themselves with the technicalities and the particularities of the AFS licensing regime. In addition, new licensees would be subject to ongoing costs for maintaining and complying with the conditions of their new AFS licences. This cost may increase substantially were ASIC to expect licensees that are currently operating offshore to hire local staff to perform tasks presently performed outside of Australia. In our view, the costs would be prohibitive. As such, we would expect to see operators with small participation in the Australian market, yet still valuable from the perspective of the Australian investing community, withdraw.
C2Q3	**If you are a sufficient equivalence FFSP, how does your entity conduct its cross-border activities in other jurisdictions? Does your entity hold licences in jurisdictions other than your home jurisdiction? Please be specific in your response.**
	Not applicable.
C2Q4	**If you are a domestic AFS licensee, what would be the impact of introducing this modified AFS licensing regime on your business activities in Australia? Please be specific in your response, and include an itemised breakdown of costs and/or savings.**
	Not applicable.
C2Q5	**If you are a wholesale client of a sufficient equivalence FFSP in Australia, what impact would the repeal of the relief have on your business? Please give reasons for your preference.**
	While not applicable to us directly, the costs would be significant for our investing clients. For FFSPs operating in reliance on the sufficient equivalence regime that choose to stay in Australia and obtain an AFS licence, the costs of doing so (and the costs of maintaining and complying with the licence) will ultimately be borne by investors.

	There is also the potential risk for Australian investors associated with dealing with Australian licensees of foreign entities with few financial resources in Australia, when compared with dealing with their foreign affiliates (with significant financial resources) from whom wholesale investors presently receive financial services in the event of disputes arising. There is a further unquantifiable cost associated with losing or restricting access to investments for Australia's institutional investors. Such a step has the potential to significantly impact the long term growth prospects of Australian institutional investors if investments they may make are limited.
C3Q1	**Do you agree with our proposal that general obligations under s912A(1)(a)–(ca) and (h) should apply to sufficient equivalence FFSPs applying for a foreign AFS licence? If not, why not? Please be specific in your response.**
	First, this question demonstrates that to the extent that ASIC wishes to impose conditions upon FFSPs, this may be done through the use of the existing legislative instrument framework by imposing many of these obligations as conditions. ASIC has recently taken this approach by imposing a requirement upon FFSPs similar to that provided by section 912C of the Corporations Act in *ASIC Corporations (Repeal and Transitional) Instrument 2016/396*. Regarding the specific obligations to be imposed if the current proposal were to be adopted, these specific obligations appear reasonable, and in our view reflect the expectations of FFSPs at present (with the exception of section 912A(1)(b) of the Corporations Act), noting that FFSPs are required to comply with the conditions of the relevant instrument on which they presently rely. ASIC is proposing that FFSPs be required to comply with financial services laws by requiring compliance with section 912A(1)(c) of the Corporations Act. It should be noted that FFSPs are already required to comply with the vast majority of the financial services laws in Australia. FFSPs, for instance, are not exempt from compliance with the market misconduct provisions of Part 7.10 of the Corporations Act and the *Australian Securities and Investments Commission Act 2001* (Cth). The present relief only exempts FFSPs from the requirement to obtain a licence and thus comply with licensee obligations.
C4Q1	**Do you agree with our proposal to exempt sufficient equivalence FFSPs from the general obligations in s912A(1)(d)–(f) and (j)? If not, why not? Please be specific in your response.**
	Yes. Compliance with these provisions may be difficult for some FFSPs to achieve, particularly where the FFSP is based overseas and the relevant Australian presence of the FFSP is limited.

C5Q1	**Do you agree with our proposal to exempt sufficient equivalence FFSPs from the application of certain provisions of the Corporations Act and Corporations Regulations where the overseas regulatory regime achieves similar regulatory outcomes to the Corporations Act? Please be specific in your response.**
	Yes. This was the basis for the sufficient equivalence relief in the first instance.
C6Q1	**Do you agree with the considerations we should have regard to when determining which Corporations Act and Corporations Regulations provisions should not apply to sufficient equivalence FFSPs? If not, why not? Please be specific in your response.**
	Yes, we agree with the reliance on General Principles 1-4 of ASIC *Regulatory Guide 54: Principles for Cross-Border Finance Regulation*.
C6Q2	**Do you think we should include any other considerations when determining which provisions should not apply to sufficient equivalence FFSPs? Please specify which other considerations in your response.**
	In addition to those already outlined, ASIC should consider the relative cost of compliance with the Australian regulatory regime when equivalent laws already apply in overseas jurisdictions.
C6Q3	**Do you think there are other Australian requirements that should be included in Appendix 1 (i.e. requirements that should not apply to foreign AFS licensees)? If so, why should those additional requirements not apply to foreign AFS licensees? Please be specific in your response.**
	No.
C6Q4	**Do you think there are provisions in the Corporations Act or Corporations Regulations that we have included in Appendix 1 that should apply to foreign AFS licensees? If so, why should those requirements apply to foreign AFS licensees? Please be specific in your response.**
	No.
C7Q1	**Do you agree with our proposal and the proposed conditions of exemption? If not, why not?**
	If the proposal to require FFSPs to be licensed was adopted, yes. This proposal will go some way to preserving the ability of Australian investors to invest outside of Australia through overseas operators.

C7Q2	**Are there any provisions of Divs 2 and 3 of Pt 7.8 from which you consider an FFSP should not be exempted? If so, please be specific in your response.**
	No.
C7Q3	**Are there any sufficiently equivalent jurisdictions in relation to which proposal C7 should not apply? Please be specific in your response.**
	No.
C8Q1	**Do you agree with the conditions we are proposing to impose on foreign AFS licensees? If not, why not? Please be specific in your response.**
	We do not agree regarding the limiting of "representatives" to employees and directors of the licensee. There needs to be greater recognition of free flowing labour markets, and contractors should be able to be representatives of foreign AFS licensees. In this respect, the definition of "representative" in section 910A of the Corporations Act should be used. We think the interaction with ASIC *Pro Forma 209: Australian financial services licence conditions* condition "Licensee Responsibility for Overseas Financial Services Providers" requires further consideration, as it is not clear how that condition will work in the context of a foreign AFS licensee. We agree with the breach reporting and ASIC notification conditions proposed. These conditions are similar to those already imposed by the sufficient equivalence relief.
C8Q2	**Would you prefer to have the option of allowing sufficient equivalence FFSPs to appoint any person as a representative? Note that in this case the general obligation under s912A(1)(f) of the Corporations Act would apply to the foreign AFS licensee.**
	As noted above in C8Q1, we think that "representative" should have the same meaning as at section 910A of the Corporations Act. In our view, there is no reason why section 912A(1)(f) of the Corporations Act should necessarily apply as a result. This is especially so, noting that section 769B of the Corporations Act makes persons vicariously liable for the conduct of their agents or employees in this jurisdiction.

C8Q3	**Are there any other conditions that you think we should impose on foreign AFS licensees, and why? Please be specific in your response.**
	No additional conditions should be imposed.
C9Q1	**Do you agree with our proposal that core and additional proofs must be provided to support an application for a foreign AFS licence?**
	No. Our view is that the cost of preparing the relevant proofs would be high, especially where some documents required may not have equivalents or direct equivalents in the home jurisdiction of the FFSP. We have generally found this to be the case when an offshore entity that is already licensed offshore has sought to apply for an AFS licence. Further, it calls into question the detailed assessments already undertaken by overseas regulators who have seen fit to grant the FFSP the licence or authorisation relevant in the FFSP's home jurisdiction and is not in keeping with the general concept that such a regime is sufficiently equivalent to the Australian jurisdiction.
C9Q2	**In addition to the requirements specified in RGs 1–3, what information do you believe you can and should provide to us to demonstrate that you are not likely to contravene the obligation under s912A(1)(c) to comply with the additional conditions on a foreign AFS licensee (see proposal C8)? Please be specific in your response.**
	Previous compliance with the FFSP regime, including the provision of notifications to ASIC as required, should be required to be demonstrated by those who have relied on the sufficient equivalence relief.
C9Q3	**In addition to the requirements specified in RGs 1–3, what information do you believe you can and should provide to us to demonstrate that you are not likely to contravene the obligation under s912A(1)(c) to comply with financial services laws subject to the modifications proposed in proposal C5? Please be specific in your response.**
	As described above in relation to C8, FFSPs have largely already been complying with financial services laws. Their previous reliance on the sufficient equivalency regime may lend weight to an argument that FFSPs are unlikely to commence contravening financial services laws merely because they become licensed. Disclosures of any regulatory action taken against FFSPs in their home jurisdictions should be provided if the model is adopted. ASIC should provide guidance regarding the level of detail that will be required in this respect.

Section D: Repeal of the limited connection relief	
D1Q1	**Do you agree with our proposal to repeal the limited connection relief? If not, why not? Please be specific in your response.**
	No. The limited connection relief is a valuable piece of the regulatory architecture. It aids in complementing the exemptions already provided to FFSPs by sections 911A(2A)-(2E) of the Corporations Act and allows for the providers of financial services to wholesale clients to market those services to Australian investors (including large, sophisticated institutional investors). Those relying on the limited connection relief, in our view, are restricted to a very limited type of conduct in Australia. Traditionally, we would advise foreign clients marketing in Australia very irregularly (once or twice per year) that they could do so in reliance on the limited connection relief. Where a client is carrying on activities in Australia beyond this, we would traditionally advise that they seek, at first instance, to rely on another relevant exemption (such as sections 911A(2A)-(2E) of the Corporations Act) or the sufficient equivalence relief. To the extent that ASIC is concerned that some providers are purporting to rely on the limited connection relief and carrying out activities beyond those intended by the relief, in our view this could be addressed by doing either or both of the following: (a) being more prescriptive in the drafting of the instrument to limit activities or the circumstances in which the relief may be used; and/or (b) providing more regulatory guidance around ASIC's views on the circumstances in which the relief may be used, including in the explanatory statement for the relief.
D1Q2	**If we repeal the limited connection relief, what would be the compliance costs associated with applying for an ordinary AFS licence, or a foreign AFS licence, and maintaining your entity's compliance with the Corporations Act? Please provide an itemised breakdown of:** **(a) your entity's projected costs to apply for and maintain an ordinary AFS licence;** **(b) your entity's projected costs to apply for and maintain the proposed foreign AFS licence; and** **(c) any other relevant costs.**
	As noted above, in our view, the cost of applying for an AFS licence would be between $50,000 and $100,000. In addition to this initial cost, the costs of maintaining and complying with the licence each year would be high. The more likely result in our view is, given the limited activities these entities carry on in Australia, the withdrawal by those entities from the Australian market. There is also a likelihood that other entities that may have entered into the market will not do so given these costs, particularly where they wish to use the limited connection relief to test the market to see if there will be interest in their

	services or products. The repeal of limited connection relief would lead to a change in Australia's financial services provider system whereby FFSPs relying on this relief would abandon marketing to Australian investors in Australia. It is likely that Australian investors would be forced to go overseas to meet potential investment partners or would not have an opportunity to meet with them and obtain their services at all. The repeal would also increase the cost of carrying on business for Australian investors, particularly sophisticated institutional investors who rely on access to investments and markets around the world.
D1Q3	**We understand from the limited engagement by service providers with CP 268 that a number of wholesale fund operators rely on the limited connection relief. If we repeal the limited connection relief:** **(a) What would be the impact on your business or your client's business? Please provide data on the types of activities for which you rely on the relief, and the volume and value of business you conduct under the relief.** (b) **How does your entity address this issue with respect to activities that you conduct in jurisdictions other than your home jurisdiction? Please be specific in your response.**
	In our view, the relief is used by the vast majority of foreign wholesale investment managers in Australia. In particular, it is relied upon by Australia's sophisticated institutional investors to gain access to investments around the world, as it allows for foreign providers to market products and investment opportunities to them. This is of critical importance to the Australian institutional investor market, giving access to investments around the world.
D1Q4	**If you rely on our limited connection relief, do you rely on licences or exemptions relating to your activities that affect places other than your home jurisdiction? Please be specific in your response.**
	Not applicable.

D1Q5	**If you disagree with our proposal to repeal the limited connection relief, what (if any) enhanced conditions should be introduced to better facilitate supervision by ASIC? For example, what would be your view on the introduction of:** **(a) a requirement on FFSPs to notify ASIC of reliance on the limited connection relief at the outset and a further notification when the FFSP ceases to rely on that relief (the notification would be through an online form requesting a detailed description of the intended business activity (i.e. account of specific transaction procedures, intended market presence in Australia and client groups targeted), a copy of the FFSP's constitution or articles of association, and an executed agreement with an Australian local agent);** (b) **an express information-gathering power for ASIC; and** (c) **a mechanism for ASIC to monitor and take action in relation to your activities?**
	We agree that ASIC should have an express information gathering power in relation to the limited connection relief. We also agree that ASIC should be able to take enforcement action in relation to the actions undertaken in Australia by those relying on the limited connection relief, noting that we are of the view that it already has this power. The notification requirement is more problematic. In our experience, FFSPs are not always aware that section 911D of the Corporations Act may result in FFSPs possibly "carrying on business in Australia" merely by marketing to select Australian investors. While we do not necessarily disagree with its implementation, ASIC must be aware that widespread compliance with the condition is by no means assured, given the breadth of operation of section 911D of the Corporations Act. To that end, ASIC will need to consider how to publicise the requirement to FFSPs to ensure that ASIC's regulatory objectives are achieved. Finally, ASIC may wish to give itself an express power in any relief instrument to exclude providers from relying on the relief where it has concerns that the provider is not fit to provide services to Australian clients, or where a provider is using the relief in a manner which is contrary to its policy intentions.
D1Q6	**If we repeal the limited connection relief, do you expect to apply to rely on another exemption to continue to provide financial services? If not, why not? Please be specific in your response.**
	In our view, the most likely outcome will be that providers cease to advertise and market in Australia. As a result, Australian investors will be required to travel overseas, including to investment hubs in Asia such as Singapore and Hong Kong, to meet with providers in relation to investment opportunities and incur costs as a result. These costs will ultimately be passed on to Australian investors. We would expect to see some clients attempting to limit actions in Australia to those exemptions provided by sections 911A(2A)-

	(2E) of the Corporations Act, but given the limited scope of those exemptions and in some cases the uncertain nature of their application, we do not think that they will be an adequate alternative to the limited connection relief.
Section E: Proposals on implementation of the new regime	
E1Q1	**If we repeal the sufficient equivalence relief and individual relief, do you think that a 12- month transitional period gives sufficient time to comply with the applicable Corporations Act requirements and foreign AFS licence conditions? Please give reasons for your view.**
	No. One of the biggest issues, in this respect, is the strain that would be placed upon ASIC's internal resources. At present, we tell clients to allow a processing time by ASIC of at least six months for what we consider to be relatively simple licence applications (e.g., only seeking to provide limited services to wholesale clients). With the potential addition of hundreds of additional licence applications, it is unlikely that ASIC resources will be able to meet the demand. Accordingly, a two year transition period would be more appropriate. An additional suggestion may be to stagger the dates by which entities from particular jurisdictions presently relying on sufficient equivalence relief must apply for an AFS licence. For instance, one six month period may relate to UK entities presently relying on the relief seeking an AFS licence, and the next six month period to US entities. This would allow for ASIC staff to familiarise themselves with particular jurisdictions one by one, rather than dealing with all at once.
E2Q1	**Do you agree with our approach? Please give reasons for your view.**
	Yes. There is no reason to doubt the jurisdictions that ASIC has previously assessed as being sufficiently equivalent have lost their equivalence.
E3Q1	**Do you agree with the proposed transitional period? If not, do you think it should be longer or shorter?**
	We agree that one year would be sufficient given, in our view, the majority of these entities would not apply for an AFS licence and will modify their internal processes.
E4Q1	**Do you agree with our approach? Please give reasons for your view.**
	This would be appropriate. Many jurisdictions with which Australian institutional investors regularly engage including Ireland, the Cayman Islands and Guernsey, have not previously been assessed as sufficiently equivalent. Access to these markets is of critical importance for Australian investors.

E4Q2	**Do you think that the proposed 12-month transitional period is sufficient for FFSPs to engage with ASIC for us to undertake a sufficient equivalence assessment of their home regulatory regime and apply for a foreign AFS licence? If not, do you think it should be longer or shorter? Please give reasons for your view.**
	Whether 12 months is sufficient will depend on the level of assurance ASIC requires and the internal processes ASIC is required to follow. We note our response to E1Q1. In our view, 12 months will probably be sufficient, but this view is subject to change (again, subject to our response to E1Q1).
E5Q1	**Do you agree with our proposal of a scaled back assessment of sufficient equivalence for the new foreign AFS licensing regime? Please give reasons for your view.**
	We agree. In the identified jurisdictions, regulators have already carried out assessments to ensure FFSPs may provide the relevant services.
E5Q2	**Do you think other questions should be excluded on the scaled-back assessment? Please be specific in your response.**
	No.
E5Q3	**Are there any measures relevant to ASIC's assessment of sufficient equivalence that you think we could adopt to assist FFSPs to obtain such an assessment without creating significant burdens for them arising from such an assessment? Please be specific in your response.**
	No.