

Alert Australia 1/2022

Extension of the Transitional Relief for Foreign Financial Services Providers

Geneva, 25.08.2022

1. References

1.1 Sources

On 2 August 2022, ASIC published its decision to extend the transitional relief for foreign financial services providers:

- > <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2022-releases/22-203mr-asic-extends-transitional-relief-for-foreign-financial-services-providers/>
- > <https://www.legislation.gov.au/Details/F2022L01022>
- > <https://www.legislation.gov.au/Details/F2022L01022/Explanatory%20Statement/Text>

1.2 Country Manuals

CM PB	CM EAM	CM Products	CM AM	CM Credits	CM Trustee	CM InsDist
Yes	Yes	Yes	No	Yes	No	No

1.3 Topics

Investment Services

1.4 Key Words

Cross-border Licence; Transition Period

2. Context

Following our Alert Australia 1/2021, we informed you in our Alert Australia 3/2021, that, while waiting for the outcome of the Government's consultation on options to restore previously well-established regulatory relief for Foreign Financial Services Providers (FFSPs), ASIC decided, in June 2021, to extend to 31 March 2023 the transitional relief to FFSPs licensed and regulated in jurisdictions with comparable financial service rules and obligations, or which have limited connection to Australia, from holding an Australian Financial Service License (AFSL), in order to reduce duplicate regulatory requirements.

As no decision has yet been taken by the government on the matter, ASIC announced on 2 August 2022 that it is extending the transitional relief regime again, this time setting the end date of the transitional period to 31 March 2024.

This extension is laid down by the Corporations (Amendments) Instrument 2022/623, and concerns the relief contained in:

- > ASIC Corporations (Repeal and Transitional) Instrument 2016/396;
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- > ASIC Corporations (Foreign Financial Services Providers - Limited Connection) Instrument 2017/182; and
- > ASIC Corporations (CSSF – Regulated Financial Services Providers) Instruments 2016/1109.

Please note that Instrument 2022/396 also pushes back the commencement of the ASIC Corporations (Foreign Financial Services Providers – Funds Financial Services) Instrument 2020/199 (funds management licensing relief) to 1 April 2024.

3. Comments

As last year, with this new extension, FFSPs will be allowed to carry on their financial business with Australian wholesale clients under the existing regulatory relief regime, this time until at least 31 March 2024.

It has still to be noted that there are no certainties with this regime, that it is not a permanent instrument but only remains transitional, at least until the said date, depending on any further declaration of the Australian government.

4. Practical Implications

The practical implications of this new extension remain the same as the one following the first extension of last year. Therefore, please refer to our Alert Australia 3/2021.

It is still recommended to our clients relying on the transitional relief regime, as well as to the ones entertaining business with Australian resident clients, to continue closely monitoring the evolution of the Australian regulatory framework for potential additional measures or governmental announcements.

We are at your disposal for any questions you may have.

Best regards,

BRP Bizzozero & Partners SA



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