

8 September 2023

Capital Markets and Financial Regulators Branch
Financial System Division
Treasury
Langton Cres
Parkes ACT 2600

Submitted via email - FFSP@treasury.gov.au

Dear Sir/Madam,

Licensing exemptions for foreign financial services providers

Chartered Accountants Australia & New Zealand (CA ANZ), CPA Australia, the Institute of Public Accountants and the SMSF Association welcomes the opportunity to provide comments on the exposure draft legislation to provide Australian financial service licensing exemptions to foreign financial services providers (FFSPs).

We have examined the proposed changes in detail and, in the time available to us, have identified what we consider to be a significant issue. The proposed changes allow FFSPs to offer products to so called "wholesale investors". It is well known that under Chapter 7 of the *Corporations Act* many consumer protections available to retail investors are not available to wholesale investors.

Since the definition of wholesale investors was introduced in 2001, many Australians have been able to fall into that definition merely because of the increasing value of capital assets especially residential real estate and Australian listed equities. We note that the government's Managed Investment Scheme Review - <https://treasury.gov.au/consultation/c2023-404702> - (MIS Review) is reviewing parts of the definition of wholesale investors. We will be proposing to the MIS Review that many people who are currently able to be defined as wholesale investors will cease to satisfy that definition.

We note that the intended commencement date of the FFSP licensing exemptions is 1 April 2024. We are concerned that until modernised definitions of wholesale investors are legislated, there is an increased risk of consumer harm. The commencement date of these FFSP licensing exemptions should only be on or after the same date changes to the wholesale investor definition as proposed by the MIS Review will commence.

For any questions in relation to this submission, please contact Tony Negline, Superannuation and Financial Services Leader at Chartered Accountants Australia and New Zealand via email tony.negline@charteredaccountantsanz.com.

Yours sincerely,

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