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AIMA AUSTRALIASUBMISSION
Inquiry into Treasury Laws Aments (Your Future, Your Super) Bill 2021

Executive summary

AIMA supports the Government's policy objectives underlying the Bill including to address underperforming superannuation products and reduce the number of duplicate accounts in the superannuation system. However, AIMA members consider determining the appropriate methodology to calculate performance of superannuation funds is critical to acheiving this policy objective and ensuring the test does not drive the wrong short term behaviour to the detriment of members long term outcomes. As the methodology is critical to achieving the policy objectives, AIMA is concerned that the methodology is not contained in the Bill, the draft regulations have not been released and there is not a lot of time for input and review before the proposed commencement of the Bill.

About AIMA

The Alternative Investment Management Association (**AIMA**) is the global representative of the alternative investment industry, with around 2,000 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than $2 trillion in hedge fund and private credit assets including for Australian superannuation funds.

AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes and sound practice guides. AIMA works to raise media and public awareness of the value of the industry.

AIMA set up the Alternative Credit Council (ACC) to help firms focused in the private credit and direct lending space. The ACC currently represents over 170 members that manage $400 billion of private credit assets globally.

AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors)

Methodology

Determining the appropriate methodology to determine the performance test is critical to the success of the objectives of this reform. Noting this methodology will be contained in the Regulations which have not yet been released, AIMA considers the following factors to be important:

- The test should be measuring the net return of the Fund to members. It is very difficult to assess individual asset class performance without relating it be back to what the member receives. Therefore the net return of the Fund net of all fees deducted from members accounts should be the primary outcome which is subject to benchmarking. By way of example, we note that the Future Fund's investment objective of CPI + 4-5% per annum is easily communicated and understood, easily measured, can inform a strategic asset allocation and doesn't presuppose an allocation to any particular asset class;

- The test should be measuring risk adjusted returns. Trustees should be considering the risk taken to achieve investment performance. Risk adjusted returns are a well established and understood pillar of the asset management industry and accordingly, referencing investment returns and the standard deviation of the investment returns should be a minimum requirement.

- Whilst certain investments are inherently hard to benchmark, due to a smaller number of data points and irregular pricing, this does not mean they aren't incredibly beneficial to member portfolios. Alternatives are increasingly used by the most highly regarded portfolios in the world, due to their unique risk and return characteristics, but this does not mean they can be easily benchmarked. Further to this point, the correct way to benchmark an alternative investment is constantly being improved, a static definition could quickly become irrelevant and incorrect.

- Eight years is too short a timeframe for measuring performance. AIMA is not aware of any country that has introduced such a short term focused measure. The focus on annual returns is going to encourage short term behaviours which will lead to wrong decisions and member outcomes.

APRA

The Bill doesn't give APRA any ability to exercise nuance over any particular case of underperformance. Under (or over) performance seems very binary but, of course, is far from it given it is measured relative to something. Even within a particular benchmark such as equity you can have extended periods where a particular factor such as Value will underperform relative to Growth. This doesn't make that factor bad per se it just needs to be understood and decomposed. A large unintended consequence could be that funds are driven into investments that have worked recently, inherently decreasing the robustness of the industry as a whole

Timing

We note that the Committee is due to report on 22 April 2021, the regulations have not been released for public consultation and the proposed commencement of the Bill is 1 July 2021. AIMA considers there is a huge risk that hastily drafted regulations will result in unintended consequences for members as trustees will make allocation decisions based on meeting short term performance measures rather than focusing on the long term best interests of members. We urge the Government to delay the commencement so that relevant experts can be consulted to ensure that the performance test is designed to meet the objective.

Contact points

We would be happy to discuss any aspect of our submission or provide further information.

The AIMA contacts in respect of this Submission are:

Kher Sheng Lee
Managing Director[1]
Co-Head of APAC
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Yours faithfully

Kher Sheng Lee

Nikki Bentley

List of proposals and questions

Proposal	Feedback	AIMA Response
B1 We propose to provide relief to FFSPs that provide funds management financial services—subject to a cap on the scale of the FFSP's services provided to professional investors in Australia (see proposal B3) and conditions that apply to the operation of the relief (see proposal B4). A person engages in a funds management financial service if they provide: (a) any of the following financial services to a professional investor in Australia: (i) dealing in interests of a managed investment scheme established outside Australia (scheme) or securities of a body that carries on a business of investment that is not incorporated in Australia (body); (ii) providing financial product advice in relation to the interests or securities of the scheme or body; and (iii) making a market in relation to the interests or securities of the scheme or body; and (b) portfolio management services to a limited category of professional investors ('eligible Australian users') (see proposal B2).	B1Q1 Do you agree with our proposal to provide AFS licensing relief to permit FFSPs to provide funds management financial services to professional investors (subject to the cap in proposal B3 and the conditions in proposal B4)? If not, why not? Please be specific in your response. B1Q2 Do you agree with our proposal to not provide relief in relation to the provision of a custodial or depository service on the basis that it is covered by reg 7.6.01(1)(k)? If not, why? Please be specific in your response	We generally support the proposal to provide AFS licensing relief to permit FFSPs to provide "funds management financial services" to professional investors. However, we consider limiting the licensing relief to inducing activities captured under section 911D of the *Corporations Act 2001* (Cth) (**Corporations Act**) is too narrow as the FFSPs will not be able to provide financial services in the ongoing servicing of those clients. For example, the provision of ongoing portfolio reporting or potentially meeting with the client (in person and within the jurisdiction) may include the provision of financial product advice. These additional activities could cause the FFSP to technically carry on a financial services business in this jurisdiction other than because of the operation of section 911D of the Corporations Act. We therefore request that reference to section 911D be removed from item 5 of the draft instrument. Further, we note the definition of "funds management financial services" is drafted slightly differently in each of the draft instrument of relief, CP315 and the draft regulatory guide (ie, in the CP315 definition note the incorrect use of "and" after paragraphs (a)(ii) and (a)(iii) and in the draft regulatory guide note the incorrect use of "and" after paragraph 176.118(a)(iii) and in the key terms). The draft regulatory guide should align with the draft instrument. We also consider the operation of the revenue cap including the lack of an appropriate transition period to obtain a limited licence will limit the ability for FFSPs to rely on this exemption. Please see our comments in relation to QB3 for more detail. We request clarification of paragraph 37 of the CP315 which suggests that offshore funds that do not conduct any inducing activity but issue interests in the fund to persons in Australia may need to rely on this licensing relief. We consider this commentary problematic and it creates uncertainty in the industry. In our experience, most fund managers and distributors of offshore funds will obtain an AFSL or otherwise benefit from an exemption from the requirement to hold an AFSL when marketing interests in an offshore fund in Australia but the offshore fund itself will not obtain an AFSL or exemption because it is not regarded as carrying on any business in Australia. Your commentary at paragraph 37 contradicts the position at law. We suggest the paragraph

Proposal	Feedback	AIMA Response
		be deleted altogether. We do not agree with the decision to omit from the relief the provision of a custodial or depository service on the basis that it is covered by regulation 7.6.01(1)(k). Regulation 7.6.01(1)(k) is very narrow and does not, in our view, generally apply to FFSPs. In any event, it is generally not the fund manager who provides custody services to an Australian client, it is the offshore fund. For the reasons stated above, the offshore fund is not typically regarded as carrying on any business in Australia and so does not require the relief. The basis for omitting the custody authorisation therefore seems flawed to us. Consistent with the existing FFSP relief, we request that custody services be specifically included in the definition of "funds management financial services".
B2 For the purposes of the funds management relief, we propose to define 'portfolio management services' to mean the management of assets located outside Australia by a manager on behalf of 'eligible Australian users'. We propose to define eligible Australian users to include: (a) a person in Australia who is a trustee of: (i) a superannuation fund, within the meaning of the Superannuation Industry (Supervision) Act 1993 (SIS Act), with net assets of at least A$10 million; (ii) an approved deposit fund, within the meaning of the SIS Act, with net assets of at least A$10 million; (iii) a pooled superannuation trust, within the meaning of the SIS Act, with net assets of at least A$10	B2Q1 Do you agree with our proposed inclusion of 'portfolio management services' as a discrete type of funds management financial service that FFSPs can provide under the relief? If not, why not? Please be specific in your response. B2Q2 Do you agree with our proposed definition of 'portfolio management services'? If not, why not? Please be specific in your response. B2Q3 Do you agree with our proposed definition of 'eligible Australian users' of portfolio management services? If not, why not? Please be specific in your response.	Yes we generally agree with inclusion of 'portfolio management services' as a discrete type of funds management financial service that FFSPs can provide under the relief. We consider that ASIC should clarify that the "management of assets" includes the Corporations Act defined terms of "dealing", "financial product advice", "making a market" and (if custodial services are included in the definition of "funds management financial services") "custodial or depository services" in relation to the assets. Without using these defined terms, the concept of "management of assets" is unclear. As stated in our response to B1Q1, the provision of ongoing portfolio reporting and potentially meeting with the client (in person and within the jurisdiction) should also be captured by the concept of 'portfolio management services'. We also consider there is no reason to require that the assets be "located outside" Australia. We consider this has the unintended consequence of requiring foreign managers exclude Australian assets from their portfolios. For example, a global equities manager may include a small proportion of Australian listed securities within their strategy. Or a global property manager may include a small portion of Australian property assets within their strategy. There seems to be no policy rationale for precluding FFSPs from managing Australian assets. Perhaps your intention is to ensure assets are managed outside of Australia, rather than assets must be located outside of Australia. If that is the case, then the relief and regulatory guide need to be clarified.

Proposal	Feedback	AIMA Response
million; (iv) a public sector superannuation fund, within the meaning of the SIS Act, with net assets of at least A$10 million; (b) a person in Australia who operates a managed investment scheme, with net assets of at least A$10 million; (c) a person who operates a statutory fund under the Life Insurance Act 1995 in Australia; and (d) an exempt public authority, as defined in s9 of the Corporations Act.		We do not agree with your proposal to limit the portfolio management services exemption to a subset of professional investors. We consider the subset is too narrow and does not capture all Australian institutional investors. We also think it will be confusing to have two different categories of permitted clients. We consider professional investors should be used for both exemptions and the existing definition of professional investor in the Corporations Act should apply. If ASIC insists on a narrower definition of professional investor to that already used in the Corporations Act, then at the very least we request that the two exemptions use a common definition and to avoid confusion with the existing definition of professional investor, a new term is used for the purposes of the relief. Finally, we note the term "eligible Australian users" is not used in the draft instrument. There should be consistency of defined terms between the instrument and the regulatory guide.
B3 To ensure that the funds management financial services are provided on a limited basis, we propose that the FFSP will only have the benefit of the funds management relief if less than 10% of its annual aggregated consolidated gross revenue, including the aggregated consolidated gross revenue of entities within its corporate group (for each of the previous and current financial years), is generated from the provision of funds management financial services in Australia (aggregated revenue cap).	B3Q1 Do you agree with our proposal to apply an aggregated revenue cap to ensure that the financial services provided by FFSPs under the funds management relief are provided on a limited basis? If not, why not? B3Q2 What systems and processes will you need to implement to monitor your compliance with the aggregated revenue cap? Please be specific in your response. B3Q3 What are the costs associated with implementing the systems and processes to monitor compliance with the aggregated revenue cap? Please	Whilst we understand limiting the relief to FFSPs where the Australian business is not significant in relation to their broader business, we consider there are challenges with the proposed revenue cap. In particular, the cap is set too low given that Australian institutional investors can make large allocations which, particularly for smaller managers, can amount to a large percentage of their revenue. We suggest that the revenue cap is increased and is not less than 20% of the total gross revenue of the FFSP. We also note that the cap could be breached in circumstances outside the control of the manager (ie a large redemption from a non-Australian investor). Other factors that can impact the gross revenue of the manager include performance fees (which can fluctuate dramatically and without notice), currency exchange and strong performance in particular segments of the market. It is not practicable to require the manager to cease providing services to Australian investors in these circumstances. This provides too much uncertainty for the Australian investors and the mandates and investments usually take some time to transition to a new manager. It is unclear from CP315 when the gross revenue estimates need to be done. At

Proposal	Feedback	AIMA Response
	be specific in your response. B3Q4 Are there any other caps that we should consider as an alternative (see Table 3 for other caps we have considered)? What are the costs associated with monitoring compliance with your alternative cap? Please be specific in your response. B3Q5 Is the proposed aggregated revenue cap able to be applied to all the types of financial services that you may provide to professional investors in Australia (e.g. providing financial product advice)? Please be specific in your response. B3Q6 If you currently have the benefit of the limited connection relief and intend to reduce the size of your activities in Australia to have the benefit of the proposed funds management relief, how long would it take to do so? What are the costs associated with this? Please be specific in your response.	CP315.47, ASIC refers to an FFSP measuring compliance "at the time it proposes to provide the funds management financial service". For a mandate with daily trading this is not practical. We consider that the revenue cap should be based on the last financial year and should provide an 18-month transition period for the FFSP to apply for a limited AFSL when they reach the cap. If the last financial year is not a reasonable proxy for revenue (eg because of unusual performance or because of fee caps / negative carry forward arrangements etc), then the manager ought to be able to make adjustments to estimates accordingly provided the manager is at all times acting reasonably. We do not agree with service specific caps (as per Option 2, Table 3 of CP315), as 'portfolio management services' will likely comprise dealing and advice. It will be somewhat artificial to identify what portion of revenue is attributable to advice vs dealing vs market making etc. Nor do we agree with the number of clients cap (as per Option 1, Table 3 of CP315), as an FFSP may attend an Australian "road show" and present to 10 – 20 prospective clients. If advice is provided at these meetings, then automatically the FFSP will breach the proposed three client cap. If a client cap approach is adopted, then we suggest the cap be higher than three (at least five) and a client be defined as someone to whom the FSSP is actually contracted to provide portfolio management services (and not prospective portfolio management services).
B4 We propose that FFSPs seeking to have the benefit of the funds	B4Q1 Do you agree with our proposal to impose these conditions on the funds management relief? If not, why not? Please be specific in your	In relation to each of the proposed conditions set out in item 6(1) of the draft instrument, we comment as follows (using the numbering in item 6(1)): (a) We agree with this – in order to take advantage of the relief the FFSP should not

Proposal	Feedback	AIMA Response
management relief will be subject to the following conditions: (a) the FFSP must not be carrying on a business in Australia; (b) the FFSP has appointed a local agent who is authorised to accept, on the FFSP's behalf, service of process and notices; (c) the FFSP must enter into a deed submitting to the non-exclusive jurisdiction of the Australian courts in relation to action by ASIC and other Australian government entities, and lodge it with ASIC; (d) the FFSP must notify ASIC of the types of funds management financial services it intends to provide to professional investors in Australia; (e) the FFSP must maintain adequate proof of its compliance with the proposed 10% aggregated revenue cap (see proposal B3); (f)	response. B4Q2 Are there any other conditions that you think we should impose on FFSPs? Please be specific in your response. B4Q3 Are there any conditions that you think we should not impose on FFSPs? Please be specific in your response. B4Q4 Should the provider of the funds management financial services be subject to an additional condition that it be regulated by a regulatory authority that is a signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (IOSCO MMOU) or the IOSCO Enhanced Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (IOSCO Enhanced MMOU)? How would this additional condition affect the provision of funds management financial services to professional investors in Australia? Please be specific in your response. B4Q5 What are the costs associated with complying with these conditions? Please be specific in your	be conducting business in a manner that would require it to be registered as a foreign company in Australia. Given that the instrument does not refer to concepts of "carrying on a business" and simply refers to the obligation to not need to be registered as a foreign company in Australia, then we do not consider it appropriate for the draft regulatory guide to refer to "carrying on a business" concepts as there are somewhat fluid concepts determined by case law. (b) We agree with this. (c) We disagree with this. Please see our comments above in relation to QB3 concerning the difficulty with estimating gross revenue, the timing and transition challenges. (d) See our comments in relation to QB3 concerning the difficulty with estimating gross revenue, the timing and transition challenges. (e) See our comments in relation to QB3 concerning the 10% revenue cap. (f) See our comments in relation to QB3 concerning the timing for determining the estimates. We suggest these be based on the previous financial year's income. (g) We agree with this. (h) Given the requirements of paragraph (g)(iv)-(vi), we do not see this paragraph adds value. (i) We agree with this. We encourage consistent use of terms across the instrument and regulatory guide and, to avoid confusion, prefer the term "process agent" be used (instead of agent or local agent). As discussed at B2 above, we consider the relief should apply to professional investors for both exemptions. We do not consider it necessary that the funds management financial services be subject to an additional condition that it be regulated by a regulatory authority that is a signatory to the IOSCO MMOU or the IOSCO Enhanced MMOU. Given condition 6(1)(g) requires the FFSP to provide information to ASIC directly, it seems irrelevant whether the foreign regulator is a signatory to the IOSCO MMOU or the IOSCO Enhanced MMOU. We note it can also be slow for new regulators to sign up to, or to become fully

Proposal	Feedback	AIMA Response
the FFSP must comply with directions from ASIC to provide a statement (similar to s912C); (g) the FFSP must provide reasonable assistance to ASIC during surveillance checks (similar to s912E); (h) the financial services must be provided only to clients in Australia who meet the definition of professional investor, or, in the case of portfolio management services, only to clients who meet the definition of eligible Australian user; and (i) the FFSP cannot rely on the relief if ASIC has notified the FFSP, or its agent, that the FFSP is excluded from relying on the relief, and ASIC has not withdrawn the notice. We also propose to use our powers, as set out in proposal B4(f), where we may require an FFSP to provide information	response. B4Q6 Do you agree with our proposal to use our powers to require an FFSP to provide information about the services the FFSP provides to professional investors in Australia, as well as its compliance with the proposed aggregated revenue cap? Please be specific in your response. B4Q7 If you disagree with the proposal to use our powers, would you prefer that we impose the requirement to provide an annual declaration about the activities the FFSP conducts in Australia as an explicit condition on the relief? Please be specific in your response	subject to, the IOSCO MMOU or the IOSCO Enhanced MMOU. As we agree with the proposal to use ASIC's powers, we do not consider it necessary to require annual declarations about the activities the FFSP conducts in Australia as an explicit condition on the relief.

Proposal	Feedback	AIMA Response
about its activities in Australia and to demonstrate eligibility under the proposed 10% aggregated revenue cap, as required		
B5 We propose that the funds management relief will be available to eligible FFSPs from 1 April 2020, with a six-month transitional period to 30 September 2020 to facilitate compliance with the conditions of the funds management relief	B5Q1 Do you agree with the proposed transitional period? If not, do you think it should be longer or shorter?	This will only be sufficient if it provides enough time for those FFSPs that can't rely on funds management relief to obtain a limited licence. Accordingly, we consider the period should be extended to at least 18 months from when the instruments of relief are issued. Given the significant challenges the ASIC licensing department appears to face in terms of promptly processing AFSL applications and variations, we consider it highly improbable that FFSPs will be able to prepare, submit, have assessed and be granted a final limited form AFSL within a 6-month period. A longer transition period is absolutely necessary.
C1 We are not currently proposing to give AFS licensing relief to an FFSP that provides financial services to a professional investor who made the initial application or inquiry for the financial services from the FFSP (reverse solicitation). We are concerned about our ability to monitor the conduct of FFSPs providing financial services to professional investors in Australia on a reverse solicitation basis.	C1Q1 Are there any significant reasons why ASIC should provide an AFS licensing exemption based on reverse solicitation, given our proposed funds management relief in Section B and the licensing exemptions available in reg 7.602AG? Please be specific in your response. C1Q2 If you are an FFSP that may not be able to rely on the proposed new funds management relief or existing statutory licensing exemptions, please outline the specific financial services you wish to provide on a reverse	We consider that the licensing exemptions in regulation 7.6.02AG are too limited in their application. In particular, the requirement that there is no inducing is particularly problematic as the ongoing client servicing including reporting and meeting with clients could be regarded as inducing. We also consider the requirement in paragraph (c) of regulation 7.6.02AG(2C) that the person receiving the service is not a trustee or responsible entity or otherwise acting on someone else's behalf makes this exemption very limited. This is because most managers are being engaged by trustee or responsible entities and we do not understand the policy rationale for this restriction. For these reasons, we consider there should be reverse solicitation relief and the approach suggested in CP315 seems unreasonable. If Australian wholesale investors wish to invest with foreign managers there should be relief and this is consistent with many other jurisdictions which permit this.

Proposal	Feedback	AIMA Response
	solicitation basis? Please be specific in your response. C1Q3 How significant is the volume of those specific financial services provided to Australian clients to your overall business? Please be specific in your response and include quantitative information. C1Q4 If a strong case for reverse solicitation relief, as set out in the appendix to this paper, was established, do you agree with our approach to defining reverse solicitation and how it will operate with s911D, as set out in paragraphs 104 and 107–109 respectively? If not, why not? Please be specific in your response. C1Q5 If we were to provide a form of reverse solicitation relief, as set out in the appendix to this paper, we consider conditions should apply to the FFSP providing financial services on a reverse solicitation basis. Do you agree with the conditions we set out in paragraph 105? If not, why not? C1Q6 What are the costs associated with complying with the conditions set out in paragraph 105, including maintaining adequate records of proof of reverse solicitation and	

Proposal	Feedback	AIMA Response
	communications with the investor? C1Q7 If we were to provide a form of reverse solicitation relief, as set out in the appendix to this paper, are there any mechanisms that could be implemented by the FFSP or the professional investor in Australia to assist in monitoring the conduct of FFSPs to ensure that the engagement was on a reverse solicitation basis? If not, why not? Please be specific in your response	
D1 We propose to: (a) update RG 176 to include information on our proposed regulatory framework for FFSPs, including information on: (i) the foreign AFS licensing regime; and (ii) how we would apply the proposed funds management relief; and (b) withdraw Information Sheet 157 Foreign financial services providers: Practical guidance (INFO 157) when we release the updated version of RG 176.	D1Q1 Do you think we have provided adequate guidance to FFSPs about how our proposed regulatory framework for FFSPs will apply? If not, why not? Please be specific in your response.	The proposed regulatory framework in relation to the foreign AFS licensing regime requires clarification in the following areas: (a) Jurisdictions assessed under individual relief instrument – Although it is stated that a 'specified overseas regulatory regime' includes a regime assessed under individual relief instrument for the purpose of the sufficient equivalence relief in RG 176.15, there should be a clarification in subsequent paragraphs, such as RG 176.17, to state that the sufficient equivalence relief also recognises that the jurisdictions assessed under individual relief to be sufficiently equivalent to the Australian regulatory regime for the relevant financial services. (b) Processes for applying for a foreign AFS licence – More details in relation to the streamlined application process and the expected timing for granting of the licence should be provided. Clarifications should be provided in relation to these areas: 1) AFS licence authorisations – This should reflect the financial services and financial products for which the sufficiency equivalent regulatory regime is

Proposal	Feedback	AIMA Response
		available under the relevant instrument. ASIC should outline the consequences if an application is made under the sufficiency equivalence relief but the financial services or financial products selected for the licence authorisations do not reflect those that have been provided under the relevant relief. 2) AFS licence authorisations – The licence conditions should specify that the foreign licence conditions only apply in relation to services provided as part of the foreign service provider's financial services business to Australian clients, and not to the foreign service provider's wider business globally. 3) People Proofs – Given this relates to the responsible officers of a foreign AFS licensee, which are likely to reside overseas, ASIC should consider whether a criminal history check or bankruptcy check from their home jurisdictions should also be provided. 4) Additional Proofs – Clarification should be provided in relation to which additional proofs will generally not be required under a foreign AFS licence. Given the proposal under Table 3 of RG 176, certain additional proofs may not be required. For example, Table 3 states that a foreign AFS licensee is exempt from the requirement to have adequate resources in section 912A(1)(d) of the Corporations Act 2001, so by extension the additional proofs relating to B5 which relates to the licensee's human resources and IT capacity may not be required. By being more specific as to which additional proofs are not required, this will give foreign financial service providers more reasons to consider applying for the foreign licence as opposed to the standard licence. 5) Timing – Since there is a transition period between 1 April 2020 to 31 March 2022 for foreign service providers to apply for a foreign licence, ASIC should consider including some timing as to how quickly such an application is able to be processed under normal circumstances. This will provide new entrants with information required for them to adequately assess the timing of setting up their financial service business in Australia. This will also provide existing foreign service providers with adequate information as to when they will

Proposal	Feedback	AIMA Response
		need to start applying for a foreign licence to ensure that they are able to continue to provide financial services after the transition period. Given recent experiences with the ASIC licensing team, where it can take up to 18 months for a standard AFS licence application to be approved, providing timing for the approval of a foreign licence is important. The proposed framework in relation to the application of the proposed funds management relief requires clarification as to which entity is required to hold a licence or rely on an exemption in the context of an offshore fund. Industry has usually taken the view the entity that needs to consider licence implications in Australia is the investment manager, and not the offshore fund itself, but paragraphs 36 and 37 of CP 315 seems to suggest that the offshore fund itself may need to consider licensing requirements.