

# Fund managers heading south? Licensing relief in Australia: make hay while the sun shines

Are you a foreign financial service provider (“**FFSP**”) seeking to provide financial services in Australia but do not have a physical presence in Australia? You may qualify for equivalent relief due to having comparable obligations in your jurisdiction. The Australian Securities and Investment Commission (“**ASIC**”) announced that it has extended the transitional period for FFSPs until 31 March 2024. This will enable FFSPs who have limited connection to Australia or have comparable financial obligations, relief from holding an Australian Financial Services (“**AFS**”) licence.

## Registration as a foreign company

As a welcome development following its consultation in June 2021, ASIC announced that it would extend transitional relief for FFSPs for 12 months until 31 March 2023. This has now been extended a further 12 months to 31 March 2024. This will enable FFSPs who have limited connection to Australia or have comparable financial obligations in other jurisdictions relief from holding an AFS licence until the end of the relief period ending March 2024. Similarly, ASIC will consult on options to create a fast-track licensing process for FFPs who wish to establish more permanent operations in Australia.

Entities that are carrying on a business in Australia must first register as a foreign company in Australia as per the Corporations Act 2001 Division 2 Part 5B.2.

## How we can assist your firm

At Cleveland & Co, we have been preparing to proactively assist FFSPs who wish to provide services in Australia and we are fully acquainted with the ASIC’s registration process and the additional necessary steps firms will need to take to qualify for licensing relief.

We are seeing a number of FFSPs, such as UK providers, moving to provide financial services in Australia, and it is no surprise to why. This is a great opportunity for FFSPs to enter the Australian market, and once the transitional period is over, firms who are already subject to one of the equivalent foreign regulatory regimes can pursue to be registered as foreign company. The Australian fund market is a large industry, at the end of December 2021, superannuation assets totalled \$3.5 trillion and from January to December 2020, there was a 14% increase in the total superannuation assets. The transitional period coupled with being able to take advantage of the reliefs without the need to hold an Australian financial services licence, makes it highly beneficial for FFSPs.

Please reach out to our regional Managing Directors, Andrew Goldstein ([agoldstein@cleveland-co.com](mailto:agoldstein@cleveland-co.com)) and Leela Fair ([lfair@cleveland-co.com](mailto:lfair@cleveland-co.com)) for a fixed fee proposal to cover:

1. assessing your eligibility;
2. the documentary and secretarial steps required; and
3. assisting you with the necessary filings.

Has there ever been a better time to explore the great Southern Land?

For further information and assistance or advice on the above or any Our other products and services, Cleveland & Co, External In-House Counsel, your specialist outsourced legal team, are here to help.

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External in-house counsel

