

MEDIA RELEASE

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CHANGES TO FOREIGN FUND MANAGER LICENSING REGIME

MSC Group was surprised by the announcement in the Federal Budget on 11 May that the Australian Government is considering rolling back the system which has been established requiring foreign financial service providers to have a licence to operate in Australia, due to become effective from 1 April 2022.

There are currently four licensing options for foreign managers who provide financial services in Australia:

- Full Australian Financial Service Licence (AFSL);
- Foreign AFSL;
- Funds Management Relief (Operational April 2022); and
- Appointment as a Corporate Authorised Representative (CAR).

The Government seems to have largely followed recommendations in the report prepared for Senator Andrew Bragg titled “Australia as a Financial & Technology Centre Advisory Group (AFTCAG) Report”. The following is a link to the report [[AFTCAG Report Link](#)]. In particular, the data quoted in section 7.3.2.2. and the costs seems to be materially over-inflated.

MSC believes that the system which was developed by the Australian Securities & Investment Commission (ASIC) and which is due to come into full force and effect on 1 April 2022 is an appropriate system for Australia. The system will ensure that there is a high degree of oversight on all financial service providers operating in Australia.

MSC Group Managing Director, Mr Matthew Fletcher, said: “Should the Government return to the prior class order relief system, then in MSC’s view not only is there a material lack of oversight but an unfair playing field is created.”

“Under the old class order system, there was no real oversight or transparency as to the financial services being undertaken by foreign financial services firms operating in Australia. Many foreign financial services firms relying on this licensing relief are



operating with significant on the ground operations in Australia without a local licence. Further, an AFSL holder has very strict authorisations which limits what financial services can and cannot be provided. There is no real test or like for like measurement of the authorisations that a class order participant has. Additionally, foreign managers relying on the class order relief are not subject to the NTA, compliance and other standards that an Australian AFSL holder is required to maintain. No contribution is made to the ASIC levy by foreign funds operating under the class order.”

Given the new regime was settled in March 2020 following years of consultation, MSC Group is aware that the announcement has created frustration and uncertainty for many foreign financial service providers who have invested significant resources in applying for a foreign licence or sought licensing under corporate representative engagement with local licensed operators.

Mr Fletcher concluded “We believe that the system which ASIC announced in March 2020 is appropriate, balanced and should remain.”

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About MSC Group

An established, highly credentialled provider of corporate trust, intermediary and fund administration services to Australian and international fund managers, fintech businesses and other finance service providers. MSC Group’s trustee company, MSC Trustees, and related entities are active across a range of finance and investment markets including property, equities, derivatives and debt markets. Core services include fund and debenture/note trusteeship, security trusteeship, escrow and agency services as well as fund administration, registry and accounting. MSC Group operates offices in Melbourne, Sydney and Brisbane.

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