

Article Information

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Update: We do (finally) have an Update on AFSL Reforms for Foreign Financial Service Providers

In December 2021 and November 2025, we published insights relating to the much-delayed introduction of a workable regulatory regime applying to FFSPs in the Corporations Act. Finally, a bill to do exactly that has unexpectedly passed both houses of Parliament.

We are pleased to report the positive news that we had been hoping for in the area of FFSP regulation. The Australian Parliament has enacted a new regulatory regime for FFSPs under the *Corporations Act 2001* (Cth) which codifies exemptions for these providers that were the subject of now-lapsed class orders. The new laws were not usually where you would expect to find a new regulatory regime for FFSPs and were contained in the *Treasury Laws Amendment (Genetic Testing Protections in Life Insurance and Other Measures) Bill 2025*, which passed both Houses on 1 April 2026.

The first is a *comparable regulator exemption* (subsection 911A(2)(ep)), available to FFSPs serving wholesale clients who are already authorised by a recognised overseas regulator to provide the same or substantially the same financial service. This exemption carries additional obligations, including maintaining an Australian agent, submitting to the non-exclusive jurisdiction of Australian courts when proceedings are brought by ASIC or a Commonwealth authority, and notifying ASIC of any significant regulatory action taken against the FFSP by their home regulator. The Bill also provides that, when deciding whether to determine a regulator is a 'comparable regulator', regard will be had to whether that regulator acts consistently with IOSCO's standards.

The second is a *professional investor exemption* (subsection 911A(2)(eo)), which exempts FFSPs from holding an AFSL where they provide financial services from outside Australia to professional investors only, operate with their head office and principal place of business offshore, and notify ASIC within 15 business days of commencing the relevant service.

The third is a *market maker exemption* (subsection 911A(2)(eq)), exempting FFSPs who 'make a market' in prescribed licenced derivatives markets located overseas from the requirement to hold an AFSL.

For administrative efficiency, regulators that have already been assessed by ASIC as having comparable regulatory regimes by a similar process (such as those found in the previous passport exemption ASIC class orders for FFSPs) will be taken to be comparable regulators for the purposes of the first legislative instrument made under the first regulations for the purposes of the comparable regulator exemption, such as those in the US regulated by the SEC or the CFTC, those in Asia regulated by the Singapore MAS and the Hong Kong SFC, and those in Europe regulated by the German BaFin and the Luxembourgian CSSF.

The Bill also makes the AFS licencing process easier for FFSPs who *do* want to obtain an AFS by exempting them from the fit and proper person test if they provide financial services under a comparable regulatory regime.

However, the new framework is not yet in force. Royal Assent for the Bill is still pending, and the exemptions will not commence until 12 months after that date, meaning the practical start date is likely to be mid-2027. In the meantime, eligible FFSPs can continue relying on existing relief until 31 March 2027, providing a meaningful bridge to the new regime. ASIC is expected to release further guidance on the exemptions and any transitional arrangements in due course.

This new law is not a perfect solution, but it is a significant step forward from the vacuum that has persisted for too long.

FFSPs and their Australian institutional clients at last have a clearer legislative framework on the horizon. We will continue to monitor developments over the next 12 months.

Our team at Piper Alderman specialises in advising FFSPs about these Australian legal issues.

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