

File Name: 2017/31

03 November 2017

Shellie Davis
Senior Adviser
Financial System Division
The Treasury

By email: sandbox@treasury.gov.au

Dear Shellie,

Consultation on the Enhanced Regulatory Sandbox – Draft legislation

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this response to the consultation on the exposure draft ***Treasury Laws Amendment (Measures for later sitting) Bill 2017: FinTech Sandbox Regulatory Licensing Exemptions***.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$2.3 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing over 90 per cent of the 14.8 million Australians with superannuation.

ASFA response

Our comments below apply to the elements of the draft legislation relating to Australian Financial Services License (AFSL) exemptions and not to Australian Credit Licensing.

In view of the current state of Australia's regulatory sandbox framework, ASFA questions the need for legislation to extend the scope of exemptions from obtaining an AFSL for fintech providers at this time. We are also concerned with legislation being so broad in nature, referring all of the conditions for exemptions to regulation making powers.

We understand that powers already exist for ASIC to provide licence and other forms of relief under certain conditions for the purposes of testing new and innovative financial services products and services. The current ***ASIC Corporations (Concept Validation Licensing Exemption) Instrument 2016/1175***, arising from the Government's establishment of the regulatory sandbox framework early in 2017, supports such flexibility.

We note that the existing framework provides the potential for a 12 month licence exemption period for eligible businesses to test “advice” and “dealing” financial services for a range of eligible products and services. Superannuation, life insurance and holistic financial advice are excluded from the group of eligible products and services. ASIC regulatory guide RG 257 – Testing fintech products and services without holding an AFSL or credit licence indicates that “we will review the licensing exemption within 12 to 18 months of operation to see if it should be broadened or changed in any other way”.

ASFA therefore contends that a comprehensive review of the existing framework be conducted after the specified 12 to 18 month period before any changes to legislation or legislative instruments are proposed.

While the draft legislation does not in itself foreshadow the enhanced scope of the regulatory sandbox we recognise that the draft regulations include provisions to include superannuation, life insurance and holistic financial advice products and services.

Appreciating that Treasury will be conducting a separate and later consultation on the draft ***Corporations (FinTech Sandbox Australian Financial Services Licence Exemption) Regulations 2017***; ASFA will address our particular concerns and objections to the inclusion of superannuation, life insurance and holistic financial advice products and services in that process.

If you have any queries or comments in relation to the content of our submission, please contact Ken Whitton, on (02) 8079 0849 or by email kwhitton@superannuation.asn.au

Yours sincerely,

Ken Whitton

Senior Policy Advisor