17 February 2021

The Director, Skills and Innovation Policy Section
Migration Planning and Visa Section, Department of Home Affairs

Dear Sir/Madam

**Discussion Paper on the Complying Investment framework for the Business Innovation and Investment Program**

MinterEllison welcomes the opportunity to respond to the consultation in respect of proposed changes to the Complying Investment Framework (**CIF**) to be implemented by way of amendments to *Migration (IMMI 15/100: Complying Investments) Instrument 2015* (Cth) (**Instrument**), which are outlined in the Department's Discussion Paper (**Paper**).

Our submission relates solely to a single consultation question set out in the Paper.

**Question 3a. *Should all eligible funds be limited to ASIC registered funds only?***

1. The *Corporations Act 2001* (Cth) (**Corporations Act**) and the *Corporations Regulations 2001* (Cth) (**Regulations**) have set out an extensive test to delineate between wholesale clients and Retail Clients (**Wholesale Client Test**). Both the requirement to register a fund as a managed investment scheme under the Corporations Act and the Wholesale Client Test sit in the broader context of a detailed body of financial services law within the Corporations Act and the Regulation which considers the nature and extent of investor protection, reporting and disclosure that should be provided to Retail Clients and wholesale clients respectively.

2. We submit that, if additional protections are required for a particular category of investors, or if it is proposed to require registration under Chapter 5C of the Corporations Act for particular classes of managed investment schemes, these changes should be considered in an holistic manner within the wider corpus of financial services law and effected through amendments to the Corporations Act and Regulations, rather than through the Instrument. In effecting such an amendment it would be important to have a detailed consultation involving ASIC, Treasury and stakeholders in the financial services industry generally. Accordingly, whilst we note the concerns of the Department, we submit that any changes to the financial services regime in which funds under the CIF operate should sit and operate within the existing financial services regulatory regime.

3. We are grateful to the Department for the opportunity to provide this submission and we would be very happy, if required, to provide addition submissions on the above points.

Yours faithfully
**MinterEllison**

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