

Department of Foreign Affairs and Trade Australia's Southeast Asian FTA Review

Perspectives from an Australian Investment Manager Operating Regionally

Executive Summary

Australia should pursue a dedicated “Financial Services and Investment Protocol” within the AANZFTA upgrade framework, consolidating the fragmented investment provisions across its bilateral and regional agreements into a single, commercially actionable instrument.

Although that is the principal recommendation of this submission, we identify nine specific actions the Department could take to close this gap as set out in the submissions that follow.

Artesian is an Australian investment management firm with operations in Singapore, actively expanding across Southeast Asia. We manage diversified portfolios across different asset classes and currencies, with expertise in venture capital and fixed income operating through regulated fund structures including managed investment trusts and wholesale vehicles. Through APEC's Policy Partnership on Food Security, we are also exploring how our Venture Capital as a Service capability can help APEC economies channel investment into agrifood innovation and early-stage ventures across the region.

That work illustrates precisely the problem this submission addresses. Australia's FTA network in Southeast Asia was designed for trading goods. While the agreements have served merchandise exporters well, they have not kept pace with Australia's shift toward services, digital commerce and cross-border capital flows. For investment managers operating regionally, this creates fragmentation, regulatory uncertainty and practical barriers to the kind of expansion the Invested strategy encourages.

This submission addresses the six consultation questions from the perspective of an Australian financial services firm operating across the region.

1. Views on Existing Agreements

We do not use bilateral and regional agreements interchangeably. We navigate a patchwork of overlapping instruments to identify the most favourable treatment for a specific activity in a specific market. This is not a commercial choice but rather a compliance burden.

For example, if we were to establish a fund management presence in Indonesia, the relevant instruments include IA-CEPA, AANZFTA, RCEP, and CPTPP, each with different investment protections, services commitments and dispute resolution mechanisms. We would incur significant legal costs simply to determine the optimal agreement pathway before any commercial activity had begun.

Key issues encountered

- Investment chapter definitions of “investor” and “investment” vary across agreements, creating ambiguity for fund structures.
- Financial services carve-outs and prudential exceptions are inconsistently worded across bilateral and regional instruments.

- Mode 3 and Mode 4 commitments for financial services¹ differ across agreements for the same partner country.
- SAFTA has limited applicability to investment management activities despite Singapore's centrality as a regional financial hub.

Recommendation: DFAT should commission and publish a mapping exercise of investment and financial services provisions across the bilateral and regional Southeast Asian FTAs, identifying inconsistencies and gaps to reduce the compliance burden of multi-agreement navigation.

2. Benefits of Current Agreements

The direct commercial benefits of Australia's current FTA network for regional investment management are modest. The agreements were designed for a different economic era. For services-intensive, capital-mobile industries, they provide more theoretical than practical benefit.

Some value exists in CPTPP investment protections, AANZFTA's financial services framework, and temporary entry provisions for business visitors. No Australian FTA in Southeast Asia, however, provides for mutual recognition of fund structures, which means an Australian managed investment trust or wholesale fund vehicle cannot be distributed in ASEAN markets without establishing entirely new local structures in each jurisdiction. Financial services licensing equivalence, cross-border fund distribution, and data flow disciplines are all materially inadequate.

Regional agreements (CPTPP, AANZFTA) tend to provide more useful baseline protections than bilateral agreements for investment management, because the industry is inherently multi-jurisdictional and benefits from consistent regional frameworks. Bilateral agreements like IA-CEPA, however, can offer deeper provisions in specific markets although the challenge is that these are not replicated across all.

Recommendation: Embed practical financial market access mechanisms such as fund passporting, licensing recognition, and cross-border distribution frameworks into upgraded regional agreements rather than relying on standalone initiatives like the ARFP that lack FTA enforcement mechanisms.

3. Opportunities for Enhancement

The most significant enhancement opportunities for investment management are:

Fund Structure Recognition and Passporting

The strongest opportunity is a modernised framework to provide for:

¹ WTO's 4 modes of supply, as contained in the General Agreement on Trade in Services framework, which classifies cross-border services trade.

- mutual recognition of managed investment trusts and wholesale fund structures for cross-border distribution to qualified investors,
- recognition of AFSL² holders under an expedited or simplified licensing regime in ASEAN markets, and
- alignment with the Asia Region Funds Passport within a binding FTA framework.

Even Australia's most incentivised venture capital structure, the ESVCLP,³ is designed with an 80 per cent domestic deployment requirement, underscoring that Australia has not yet built investment architecture with regional capital deployment in mind. This is a gap that the FTA framework could address.

Investment Chapter Modernisation

Definitions of "investment" should encompass fund interests, carried interest, and management fee arrangements. Investment facilitation should include regulatory transparency commitments, consultation periods for financial services regulatory changes, and single-window licence processing.

Cross-Border Data Flows

Modern investment management requires free flow of data for portfolio management, risk assessment, and compliance monitoring. Enhanced provisions should include binding commitments on cross-border data flows for financial services, prohibition on data localisation as a condition of market access, and mutual recognition of data protection regimes.

Temporary Entry for Investment Professionals

Current provisions are designed for occasional business visitors or long-term transfers. Neither fits a regionally mobile investment team operating on a hub-and-spoke model. We recommend a "Regional Investment Professional" temporary entry category permitting multiple-entry, extended stays for credentialed investment professionals.

These enhancements would grow Australia's financial services exports into the region while strengthening its position as a fund domicile for ASEAN-focused investment.

4. Modernisation of Agreements

For Artesian, modernisation means three things:

- *Catching up*: ensuring FTA provisions describe the investment management activities firms actually undertake today such as venture capital, private credit, digital assets, ESG strategies and not just institutional portfolio flows in listed equities.
- *Keeping up*: benchmarking against the EU-Singapore FTA, Japan-EU CEPA, and other agreements that include more sophisticated financial services provisions, so Australian firms are not competitively disadvantaged.

² Australian Financial Service Licence.

³ Early Stage Venture Capital Limited Partnership, established under the Venture Capital Act 2002 (Cth).

- *Getting ahead*: building principles-based frameworks that accommodate digital financial services, tokenised products and AI-driven portfolio management without requiring renegotiation.

In practical terms, this means updated services schedules specifically listing fund management and venture capital as covered services, binding market access commitments for cross-border services, commercial presence and movement of professionals, comprehensive digital trade chapters covering the full spectrum of digitally-enabled financial services and regulatory cooperation frameworks with FTA-mandated review mechanisms.

Recommendation: Establish a Financial Services Modernisation Working Group within the FTA Review, comprising industry, ASIC, APRA, Treasury, and ASEAN regulatory counterparts, to develop a Financial Services Protocol template applicable across agreement upgrades.

5. Priorities for Modernisation

Our top three priorities are:

Priority 1: Cross-Border Fund Passporting

Mutual recognition of fund structures (particularly managed investment trusts and wholesale vehicles used for regional capital deployment), expedited licensing for AFSL holders, and embedding the Asia Region Funds Passport within a binding FTA framework. Australia has world-class fund management expertise; ASEAN has enormous unmet demand for institutional capital, particularly in growth equity and private credit. The current architecture does almost nothing to connect them.

Priority 2: Digital Economy with Financial Services Specificity

When FTAs refer to the digital economy, they typically mean e-commerce rules. For an investment manager operating across ASEAN, the real issues are different: the ability to move portfolio data and compliance reporting freely across borders without local storage mandates, to onboard investors and execute fund documents electronically, and to operate with enough regulatory consistency around digital assets and AI that we can deploy the same tools and strategies region-wide. Current FTA digital economy chapters do not address any of this.

Priority 3: Consolidation of Agreement Architecture

Seven FTA instruments covering Southeast Asia creates unnecessary complexity for financial services. We support a single “Financial Services Protocol” within AANZFTA that supersedes the patchwork of bilateral provisions and that contains clear guidance on how FTA commitments translate into practical market access.

We also encourage the Review to focus on aligning green investment definitions across the region so capital flows to climate projects more easily, recognising Australian fund manager licences in ASEAN markets, removing barriers to blended public-private

investment structures, and making it easier to deploy compliance technology across borders.

6. New and Emerging Sectors

The financial services treatment in most of Australia’s Southeast Asian FTAs is so limited as to be functionally absent for modern investment management. In this sense, comprehensive coverage of fund management, venture capital, private markets and digital financial services should be treated as a new inclusion.

Specific emerging sectors requiring FTA coverage include digital asset management and tokenised securities (with interoperability between ASEAN regulatory frameworks), climate finance and carbon market mutual recognition, private credit as an explicitly covered financial service and impact investment vehicles with appropriate regulatory classification.

Across all emerging sectors, FTA provisions should be technology-neutral and principles-based, ensure Australian firm access to regulatory sandboxes on non-discriminatory terms, commit to proportionate risk-based regulation and prioritise interoperability of standards rather than harmonisation.

Recommendation: Propose an Innovation Finance Annex within modernised FTAs, establishing principles-based provisions for emerging financial services that can be updated through a streamlined mechanism without full FTA renegotiation.

Summary of Recommendations

1. Commission and publish a mapping of financial services provisions across all Southeast Asian FTAs.
2. Embed fund passporting, licensing recognition, and cross-border distribution into upgraded regional agreements.
3. Establish a Financial Services Modernisation Working Group within the Review process.
4. Develop a Financial Services Protocol template for application across agreement upgrades.
5. Pursue binding commitments on cross-border data flows and data localisation prohibition.
6. Introduce a Regional Investment Professional temporary entry category.
7. Propose an Innovation Finance Annex for emerging financial services activities.
8. Explicitly address recognition of Australian fund structures, particularly MITs, wholesale vehicles, and AFSL holder licensing, in modernised investment chapters and review domestic structures like ESVCLPs for regional applicability.
9. Consolidate agreement architecture for financial services through a comprehensive AANZFTA Financial Services Protocol.

Artesian welcomes further engagement with the Department as the Review progresses. We would be pleased to provide additional detail on any aspect of this submission, or to participate in stakeholder consultations, where our regional operating experience may be of value.

Tim Heasley
Partner, Artesian Singapore
tim@artesianinvest.com
+65 878 54321