Dear Sirs,

BlackRock is pleased to have the opportunity to respond to the joint consultation paper on the Arrangements for an Asia Region Funds Passport (the “Consultation Paper”).

BlackRock is a premier provider of asset management, risk management, and advisory services to institutional, intermediary, and individual clients worldwide. As of 31 March 2014, the assets BlackRock manages on behalf of its clients totalled US$4.401 trillion across equity, fixed income, cash management, alternative investment and multi-investment and advisory strategies including the iShares® exchange traded funds.

BlackRock has a pan-Asian client base serviced from 12 offices across the region. Public and private sector pension plans, insurance companies, third-party distributors and mutual funds, endowments, foundations, charities, corporations, official institutions, banks and individuals invest with BlackRock.

BlackRock represents the interests of its clients by acting in every case as their agent. It is from this perspective that we engage on all matters of public policy. BlackRock supports policy changes and regulatory reform globally where it increases transparency, protects investors, facilitates responsible growth of capital markets and, based on thorough cost-benefit analysis, preserves consumer choice.

We welcome the opportunity to address, and comment on, the issues raised by this Consultation Paper and we will continue to contribute to the thinking of the governments of Australia, Korea, New Zealand, the Philippines, Singapore and Thailand on any specific issues that may assist in the development of an Asia Region Funds Passport.
Key points

BlackRock is supportive of the development of the Asia Region Funds Passport (“Passport”) which would facilitate cross-border offers of funds in the Asia Pacific region, leading to increased competition and ultimately providing investors with more choices.

Consistency of rules

In terms of international consistency we wish to highlight the importance for the rules in each member economy to be closely aligned. This will provide a level playing field and discourage regulatory arbitrage or “forum shopping” among member economies.

Common supervision

For the Passport to be successful, close co-operation and understanding between the member economies is required. A joint regulatory body comprising representatives from each member economy to look at multilateral resolution of disputes, supervisory cooperation and enforcement especially in areas concerning breach reporting and interpretation of regulations should be considered. This would also mitigate potential regulatory friction.

Specific comments

More details on our views on the Passport are contained in our response to the specific questions raised in the Consultation Paper. Please note that we have only included those questions to which we have comments.
Responses to questions

Basic eligibility

Types of CIS

**Q.3.1 Should there be any restrictions on the legal form of passport funds in some or all economies such as for example an exclusion of CIS that are partnerships? If so why?**

To allow flexibility, there should be no restrictions on the legal form of the passport funds even though unit trusts or companies are the more common legal forms of CIS distributed to retail investors in this region. Fund structures that meet the prescribed Passport criteria could be considered and approved by a joint regulatory body comprising representatives from each local government. A variety of structures should be available as different investors may prefer a certain form or structure due to tax or reporting reasons. We feel that as long as there are provisions to ensure that investors are protected, it should not be necessary to unduly restrict the forms of structure available to investors. For example, it is more important that notwithstanding the type of legal form of the fund, there should be provisions ensuring that the responsible persons (i.e. directors for companies, trustees for unit trusts etc.) will remain accountable to investors.

**Q.3.2 Would the restriction on naming and promotion in relation to MMFs give rise to any practical problems? If so please explain.**

We do not see any practical problems on the naming and promotion of MMFs. However, we would recommend that procedures explicitly reference the continuing work conducted by IOSCO. It is also worth noting that if any regional MMF which wishes to be passported to institutional investors in the EU would also need to meet EU naming requirements under the forthcoming EU Money Market Fund Regulation.

**Q.3.3 To what extent are offers likely to be made of interests in a passport fund that is an ETF in its home economy but not able to be traded on a financial market in the host economy?**

It is possible that a passport fund that is an ETF is only listed / traded in the home economy and not listed / traded in the host economy. If an ETF is not traded on the financial market in the host economy, it is important to ensure that the brokers in the host economy have the necessary infrastructure and platform to allow the investors in the host economy to place orders to buy/sell the ETF listed in the home economy. This is similar to brokers offering foreign listed stocks to investors and typically brokers would charge higher commission / fees to investors for executing trades on foreign listed security. As the ETF is traded in the home economy, the commission charged by the brokers in the host economy needs to be competitive to attract investors in the host economy to invest in such an ETF.

**Q.3.4 There is a risk of retail investors misunderstanding how they can realise their investment in an ETF where the interests are not traded on a local financial market. Is there reason for concern that this risk is not sufficiently addressed by host economy laws and regulations about disclosure and distribution? If so please explain.**

This risk is common for investors investing in a foreign listed security like a stock. If investors in the host economy are able to trade securities listed in a foreign stock exchange, then technically they are able to trade ETFs listed on foreign stock exchange as well. It is important however, that the brokers in the host economy clearly explain to the investors that the ETFs are not traded on the local financial market, and the trade would be done in the home economy, and the implications of that (for example, higher commission / fees, currency conversion, different settlement cycle, etc.). The host country should ideally issue guidelines to require brokers to explain to investors the issues surrounding trading of ETFs that are offered but not
listed in the host country. The question also raises the implication that ETFs are being
distributed by virtue of being offered to investors in a host economy. We would emphasise that
the offer of ETFs on exchange and the consequent trading on the secondary market does not
in our opinion constitute distribution as would be the case for a traditional mutual fund.

Home economy public offer

Q3.5 Would the requirement for an offer in the home economy give rise to any
practical problems? If so please explain.

From a product structuring perspective, it should be possible to create a new share class for a
fund specifically offered to a host economy where it is not generally offered to the home
economy that could make the operation of passporting the fund to that host economy more
efficient and easier to manage, and allow for host economy specifications.

We believe that creating a separate share class for passporting to a host economy could create
the following benefits:
• Administrative efficiency in which the amount of assets raised from a host economy could
  be identified easily for different reporting purposes;
• Enhanced investment features to match the specific client needs in the host economy such
  as offering currency hedging for the share class, changing dividend frequency for the share
  class, etc.; and
• Facilitate different sales structures for commission paying and non-commission paying
  classes to reflect different national legislation on commission payments.

Q3.6 Would the requirement for an offer in the home economy promote investor
confidence in the effectiveness of supervision of passport funds by the home
regulator? What other possible measures could be applied?

We feel that it may promote investor confidence.

Additional Question

On p.13 of the consultation paper, it is mentioned that “if commissions are paid by the fund
operator on most of its other regulated CIS to persons who arrange for investments in the
regulated CIS, equivalent commission to that payable in relation to another regulated CIS are
payable in the same circumstances in relation to the passport fund which is the subject of the
offer”.

We would like to clarify the rationale of setting the requirement for the same commission to be
paid for the passport fund in different economies as we feel that this may result in some
managers being at a competitive disadvantage. For example, if there is a ban on commissions
in a home economy then none of the funds managed by the operators in the home economy
will have commissions. This means that they would not be able to offer a commission paying
class in a host economy, putting these managers at a competitive disadvantage when
compared to local players from the host economy which are not subject to such restrictions in
the home economy.

Licensing of the passport fund operator

Operational requirements

Q3.7 Is the requirement for an audit of certain home economy laws and regulations
related to the passport fund operational requirements sufficient to ensure that
passport funds are operated in accordance with the prescribed standards?

We feel that an audit on its own may not be sufficient to ensure that the passport funds are
operated in accordance with the prescribed standards. It would be useful to also require that
qualified asset managers have a clean disciplinary and financial record and a good reputation
(i.e. be “fit and proper”) before they are allowed to participate in the fund passport programme.
A convergence of supervisory practices and cooperation on enforcement would facilitate international cooperation and we would recommend a mandatory agreement to the IOSCO Multilateral Memorandum of Understanding as a minimum standard.

**Q3.8 Are there any practical problems associated with the compliance audit rule? In particular are there any particular aspects that would be burdensome or inappropriate to audit?**

It may be costly to have an annual compliance audit and our concern is that the increase in operational costs may result in some managers trying to recover such costs by charging higher fees to investors in their funds.

To address issues relating to ongoing product rules, we suggest regular reporting on fund positions which have to be signed off by an independent depository or trustee before being submitted to the regulator. This would provide a lot of ongoing data to carry out ongoing supervision and raise issues. It would also be more consistent with international processes for managing potential risks in funds such as counterparty concentration and appropriate risk management. An example of this is the IOSCO reporting mechanism which is extended by the EU and the US for their private fund and AIFMD regimes. We would suggest that sharing this type of data between participating economies would be far more effective in managing compliance and risk in the funds, especially when coupled with an effective multilateral memorandum of understanding.

**Q3.9 Would it be clearer or more practical to instead require an audit of whether the passport fund operational requirements are being met?**

Instead of the audit requirement, as part of the review to approve a fund to be passported, we would suggest that the fund operational requirements be reviewed by the regulator for consideration on whether to approve the passport. Alternatively, if we were to adopt a sharing of data/information process with a multilateral memorandum of understanding (as outlined in our response to Question 3.8), the home economy could then notify the host economies of the continued compliance with the operational requirements. Having an audit on operations will increase the financial burden to participate in the fund passport programme.

**Track record of operator**

**Q3.11 Should operators be allowed to count experience operating other types of retail investment schemes (for example, pension funds) as the requirement is currently drafted? Are there other types of experience which should be allowed to be counted?**

We would suggest that operators should also be allowed to count experience in managing any form of regulated (as opposed to purely retail) fund.

**Qualification of officers of the operator**

**Q3.13 Should they apply to any other persons involved in the operation of a passport fund?**

There should be an agreed standard for appointing key delegates and service providers so that host economies do not reject funds on the basis that they do not agree with the level of information provided by the delegate to the home economy.

**Capital adequacy**

**Q3.15 The European Securities and Markets Authority (ESMA) in its technical advice to the European Commission on possible implementing measures of the Alternative Investment Fund Managers Directive recommended allowing a degree of substitutability between professional indemnity insurance and capital to cover professional liability risks. Should a passport fund operator be able to**
substitute for capital (in whole or in part) the amount of cover provided by holding professional indemnity insurance which meets specified requirements given that a purpose of the requirement for capital for passport fund operators is to address professional liability risk?

We would suggest the same treatment as adopted by ESMA be followed, i.e. to allow the passport fund operator to be able to substitute for capital the amount of cover provided by holding professional indemnity insurance which meets specified requirements. This is also in line with the requirements adopted by several other regulators including the Monetary Authority of Singapore.

Q3.16 If professional indemnity insurance is permitted as a substitute what requirements should apply? Should there be minimum requirements concerning the terms and level of coverage of the insurance policy and the insurance provider? For example:

Requirements on the terms and level of coverage:
(a) The policy must have an initial term of no less than one year.

(b) Coverage must include liabilities of the fund’s directors, officers or staff of third parties for whom the fund has vicarious liability.

Requirements concerning insurance provider:
(a) The insurance provider is a third party entity and subject to prudential regulation and on-going supervision.

(b) The fund manager must assess that the insurance provider has sufficient financial strength with regard to its ability to pay claims.

Are there any other set of requirements that need to be applied?

We are of the view that the above requirements are sufficient and in line with current regulations in other jurisdictions.

Operation of the passport fund

Independent oversight

Q3.17 Are there other means to ensure the policy objective of independent oversight is met? If so please explain these other means and why they should be permitted.

We are of the view that one possible means is for the trustee/depositary or a compliance committee of the passport funds to act as an independent oversight entity for the passport fund.

Compliance audit

Q3.18 Should an independent oversight entity be permitted to conduct a compliance audit?

Yes, as we are of the view that this would allow flexibility for the passport fund operator. Furthermore, an independent trustee, who is involved in and has oversight of the day-to-day fund operations, is in a better position to conduct the audit.

Q3.19 Should an independent oversight entity be permitted to self-certify its own compliance in respect of its own obligations under the passport rules instead of arranging its compliance to be audited in any circumstances? If so, under what circumstances should such self-certification be allowed and how can the potential conflict of interests be satisfactorily mitigated?
We are of the view that if a trustee is permitted to self-certify its own compliance, this should not be considered as a conflict of interest because the trustee’s role is to act in the best interests of investors and to provide independent oversight on the fund’s operations. Again, allowing the trustee to conduct a compliance audit may also bring additional flexibility for the passport fund operators.

**Q3.20 Would there be any practical difficulties in an auditor providing the opinion proposed? If so please elaborate and identify any alternative measures or alternative form of report that would sufficiently address the policy objective of ensuring compliance through independent checking where reasonable (for example, a review engagement providing negative assurance or an agreed upon procedures report from the auditor).**

For many years auditors in Luxembourg have fulfilled many of the oversight functions carried out by trustees in the UK and Ireland and this has been part of specific audit standards under local law. Notwithstanding, we believe that accounting firms should be consulted on the issues that may arise if an auditor would be tasked with this responsibility.

**Q3.21 Is this the most appropriate approach to ensure there are adequate standards which are applied consistently?**

We are of the view that permitting an independent oversight entity to conduct a compliance audit is a good approach. We would consider that an independent depository (for a fund structured as a corporate or a contractual fund) or trustee (for a fund structured as a unit trust) may be in a better position to ensure that the passport rules have been complied with due to the respective entity’s involvement in reviewing the daily fund operations.

**Investment restrictions – asset classes**

**Q3.22 Do any of the permitted assets (for example, depository receipts over gold) lack appropriate qualities of liquidity and reliable valuation and therefore should not be permitted or should be further restricted in keeping with the object of passport funds being relatively non-complex investments while enabling passport funds to be offered that will attract investor interest? If so what should be excluded or what restrictions should apply?**

We do not think that any of the suggested permitted assets should be excluded. Notwithstanding, we wish to clarify the rationale for permitting investments on derivatives over agricultural commodities and metals, given that derivatives are more complex. Further, we note that the definition of a regulated CIS refers to that of a regulated CIS in a passport member economy. This would mean that a fund wishing to gain exposure to another region would not be able to hold a regulated CIS in a non-passport economy notwithstanding such non-passport economy fund having the most liquidity and lowest spread. To address this, equivalent requirements for investment purposes can be put in place and would ultimately benefit investors. By way of example, an equivalence regime exists under the UCITS Directive, which permits the investment by UCITS funds in other non-UCITS funds which are deemed to have UCITS equivalence.

**Q3.23 Are there any other assets that have appropriate qualities of liquidity and reliable valuation that should be permitted consistent with the object of passport funds being relatively non-complex investments while enabling passport funds to be offered that will attract investor interest? If so what assets should be permitted and within what limits?**

We are of the view that the current list of permitted assets is sufficient and also consistent with other regulatory regimes, such as the high level requirements in the Level 1 UCITS. Looking at the practical implementation of the eligible assets rules in UCITS, we would suggest that high level principles on liquidity be agreed but that a further regulatory mechanism be established as part of the multilateral memorandum of understanding process recommended above. This would facilitate the assessment of the ongoing liquidity of specific instruments and the
provision of recommendations to participating economies. This would also help avoid potential conflicts where one participating economy believes that an instrument is not sufficiently liquid whereas a different economy takes another view.

**Additional Question**

Page 26 of the Consultation Paper sets the single entity limit at 5% such that a fund must not acquire an asset or enter a derivative or securities lending transaction if it results in:

- for investment positions, the fund holding transferable securities issued by the same entity in excess of 5% of its overall net asset value ("NAV"); and
- for securities lending and derivative transactions with a single counterparty, exposure in excess of 5% of the fund’s NAV should the counterparty default.

Although the Consultation Paper includes a mechanism to raise the limit to 10% if the operator has additional credit risk checks in place, we strongly consider the original limit of 5% to be too low. The UCITS and MAS Code on Collective Investment Schemes allow a single entity limit of up to 10%. In addition, a 10% single entity limit is generally not considered to be high concentration for a single entity. Setting a low single entity limit may further increase the fund’s total expense through higher transaction costs to manage the portfolio (in being forced to hold a greater than necessary number of issuers), especially when the fund size is not large at the time of launch. This would not in the best interest of investors. We would also like to clarify that the exception with respect to CCPs would apply to both exchange traded and OTC derivatives cleared through a CCP.

Finally, we would advocate the higher limit of 10% in respect of securities lending and derivative counterparty positions, taking in to account collateral held to cover any counterparty exposure due to securities lending and/or derivative activities. We would reference the UCITS standards in this context.

**Derivatives**

**Q3.24 To what extent does Table 2 in Schedule B appropriately measure exposure of a passport fund? To the extent it does not, what other measuring standards should apply?**

Our comments on Schedule B are as follows:

- The calculation formula for Futures in Table 2 (e.g. bond future, equity future, index future, etc.) should include the number of contracts.
- When the commitment approach is applied, it should limit its commitment exposure to 100% of NAV. We would suggest adding this requirement in the section under “Commitment approach” on pages 31 to 33 in the Consultation Paper.
- Duration-netting rules should also be included for the commitment calculation.

We are of the view that other than the commitment approach, value at risk (VaR) approach should be considered as an alternative to measure the derivative exposures.

We also have other considerations as follows:

- Under the section headed “Limited global exposure” on page 30, it mentions that: “A passport fund must not acquire a derivative or enter into a securities lending transaction if it would cause the global exposure of the passport fund to derivatives and securities lending to exceed or exceed to a greater extent 20 per cent of the value of its gross assets.”

  We would like clarification on the definition of “gross assets” which is not defined in the Consultation Paper.

- Under the section headed “Hedging arrangements” on page 31, it mentions that:
“In determining the exposure for a passport fund, the exposure arising from one or more derivatives, that are the subject of a hedging arrangement, can be offset against other gains that the passport fund reasonably expects would arise, based on documented reasons, when the exposure under the derivatives would arise.”

We would like to clarify what “other gains” refers to and would this be normal profit or loss or the exposure covered in Appendix B to the Consultation Paper.

**Q3.25 To what extent does the calculations required by Schedule A, including in respect of what collateral may be considered, appropriately measure the maximum potential loss of a passport fund due to a counterparty failing? To the extent it does not, what other measuring standards should apply?**

We do not see any issues so far as the calculations extend to derivative contracts. Notwithstanding, we suggest that rules surrounding collateral should be expanded to also allow collateral in the form of high quality and highly liquid securities, including government bonds, equities and MMFs. Cash collateral is only as good as the credit quality of the deposit bank and we feel that clients’ interests would be better protected by either:

- holding physical collateral securities within the protection of a custodial account; or
- re-investing cash collateral in MMFs or high quality government securities.

**Delegation**

**Q3.26 Are these eligibility requirements sufficient to ensure that the delegates have the necessary experience to perform the delegated functions and are subject to appropriate regulatory oversight? If not, what other measures should apply?**

We feel that being able to delegate within a participating economy is very restrictive and inconsistent with international asset management. Delegation should be permitted subject to equivalence rules. For example, the AIFMD portfolio delegation rules require minimal requirements and a multilateral memorandum of understanding to be put in place. In relation to the countries where activities could be delegated, it would be helpful if a list of jurisdictions to which delegation may be made be published and updated as necessary.

**Q3.27 Is it appropriate to apply the same requirements as apply to an operator to a delegate in relation to the experience of its chief executive officer and executive directors? If not, why not?**

We are of the view that the delegate’s experience of managing regulated CIS from outside participating member economies is not a bar to appointment otherwise this would be overly restrictive and inconsistent with the commercial realities of international asset management.

**Language of financial statements and audit report**

**Q3.28 Is it appropriate for a host regulator to require financial statements and audit reports to be translated to an official language of the host economy? If not, why not?**

Translation of the financial reports to the official language of the host economy would help investors understand the financial condition of the passport fund. We would suggest that translations be limited to simplified accounts or only to the audited annual report where independent auditors have reviewed the financial numbers and notes on a materiality basis.

**General questions about the substantive requirements**

For each area of CIS regulation outlined in the framework
Q3.29 Do you agree with the proposed approach in terms of whether home, host or passport rules apply to this area of CIS regulation?

We agree in general with the approach taken.

Q3.30 Do you think that the proposed approach would enable the passport to achieve its key objective of providing a high degree of investor protection? If not, in what way can the approach be enhanced?

We agree in general that the proposed approach taken would help the passport programme achieve investor protection.

Q3.31 Where the passport rules apply, do you agree with the proposed content of the passport rules? If you do not agree, please explain why not. In your view, are there better ways to achieve the underlying purpose of the proposed rules?

Please refer to our comments to the above questions.

Q3.32 What impact would the proposed approach have on competitiveness and investor confidence?

We agree in general that the proposed approach taken would contribute to competitiveness and investor confidence.

Q3.33 For prospective passport fund operators or current and prospective fund managers, what impact would the proposed approach have on your business? If the proposed approach would result in an increase or reduction in compliance or other costs, please quantify.

We would have to consider the business case of having a locally domiciled umbrella trust by understanding the market landscape of the different economies, the products to be offered and the maintenance cost to run the funds before we can assess the impact the Passport would have on our business.

Q3.34 Do you require more information about the proposed approach? If so, what?

Tax can be a very significant factor for investors when choosing investment options. However, the Consultation Paper currently does not address the various jurisdictional tax impacts arising from a prospective passport product. This lack of clarity over how taxation will come into play in the various passport regimes in Asia Pacific could well drive the overall success or failure of the Passport.

Tax neutrality is an important priority when it comes to regional passport products. There is a need to ensure that investors and funds, as well as fund managers are otherwise tax neutral when it comes to choosing a passport product as opposed to a comparable alternative, not only when it comes to seeking tax treaty relief, but also from an administrative tax filing and reporting perspective.

As such, we would more than welcome a section in the Consultation Paper that addresses with clarity and certainty any and all tax issues arising from the Passport.

Q3.35 Are there any additional requirements you would suggest? If so, what are the rules and why?

It would be helpful to have a joint regulatory body to look at multilateral resolution of disputes between regulators or governments over eligibility, supervisory cooperation and enforcement. Clashes over interpretation and regulatory practice may surface and the member economies would need a semi-permanent coordinating body or clearing house to resolve issues promptly. Having a joint regulatory body would facilitate co-operation between the member economies
by way of a multilateral memorandum of understanding, list of eligible countries for delegation of portfolio management, fund reporting using a standard template, etc.

**Regulatory functions**

**Registration and assessment**

**Q4.1 Is the proposed registration and assessment process operationally practicable?**

It would be very helpful to publish a list of host economies that will adopt the streamlined authorisation of passport fund and another list of economies that will use the notification process.

**Supervision and enforcement**

**Civil and criminal actions by members**

**Q4.3 Will members of passport funds have sufficient ability to seek compensation in the event of wrongdoing by passport funds? Is it appropriate to require the constitutive documents of a passport fund to provide that disputes between a member of the passport fund and the passport fund operator are to be heard by a court in the economy of the member (with the exemptions discussed above)? Are there practical or legal difficulties with these proposals?**

It is important to ensure that the laws and practices of the jurisdiction under which the passport fund is constituted and regulated must afford to members protection comparable to that provided by similar funds in the host economy.

However, requiring disputes to be heard in a court in the jurisdiction of the member may not appropriately or sufficiently address the issue if the home regulations governing the passport fund itself do not afford the investor protection comparable to that under the host jurisdiction. It may be more appropriate to agree with the participating jurisdiction on the avenues under which compensation is allowed and the limits/restrictions surrounding such compensation. Disclosure of investor compensation processes and limitations, if any, should be part of the offering documents.

We wish to highlight also that investors in the different jurisdictions should also be entitled to same or similar compensation as all investors should be entitled to comparable treatment and not be treated differently because they reside in a different location. This should discourage members who may have residency rights in more than one jurisdiction to “forum shop” if they are entitled to different recourse of actions or compensations in different economies.

**Civil and criminal actions by regulators**

**Q4.5 Please detail any other matters you consider relevant to the supervision and enforcement arrangements that need to be reflected in the passport arrangements.**

We do not have any further details to add.
Conclusion

We appreciate the opportunity to address and comment on the issues raised by the Consultation Paper and will continue to contribute to the thinking of the governments of Australia, Korea, New Zealand, the Philippines, Singapore and Thailand on any specific issues which may assist in.

We would welcome any further discussion on any of the points that we have raised.

Yours faithfully,

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