

11 December 2020

Senator Andrew Bragg
Chair
Senate Select Committee on Financial Technology and Regulatory Technology
Department of the Senate
PO Box 6100
CANBERRA ACT 2600

Via email: fintech.sen@aph.gov.au

Dear Senator Bragg

Second Issues Paper on longer term issues impacting financial technology and regulatory technology

As the representatives of over 200,000 professional accountants in Australia, CPA Australia and Chartered Accountants Australia and New Zealand (referred to as the Major Accounting Bodies) make this submission in response to the Committee's second issues paper.

The Major Accounting Bodies see significant value in the ongoing development of the financial technology (FinTech) and regulatory technology (RegTech) sector, given its potential to transform business and government. We therefore welcome this second issues paper.

We believe that the development of FinTech and RegTech in Australia will be enhanced through policies and government activities that:

- improve the digital skills of the workforce
- improve the regulatory regime for FinTech and RegTech businesses while maintaining appropriate consumer protections
- directly support FinTech and RegTech businesses.

Below are the Major Accounting Bodies comments on some of the specific topics raised in the second issues paper:

Competitiveness of Australia's corporate tax settings

There is significant and ongoing debate around the competitiveness of Australia's corporate tax system, company tax rates and the disincentives for foreign investors related to the dividend imputation system.

The Major Accounting Bodies have long advocated for broad-based tax reform that will enhance Australia's competitiveness, and we remain leading advocates of the need for a package of interconnected tax reforms, rather than a series of standalone reforms.

We therefore suggest that the Senate Select Committee on Financial Technology and Regulatory Technology (the Committee) acknowledge the need for broad-based tax reforms, rather than necessarily recommend tax changes specific to the FinTech/RegTech sector.

If the Committee concludes that the sector requires additional support, we suggest it considers delivering that support through direct means such as grants, rather than through preferential tax treatment.

However, if the Committee does decide to recommend preferential tax treatment for the sector, we suggest that such tax preferences be made available to all innovative businesses, not just to this sector. Consideration could be given to the effectiveness and accessibility of the early stage innovation company (ESIC) regime and the availability of the R&D Tax Incentive in relation to software.

For RegTech, the Committee should emphasise the need for government to minimise and improve regulations and acknowledge that while technology can reduce the costs of compliance it will not eliminate them. Where the government relies on RegTech providers to support regulatory regimes, consideration should be given to their capacity, profitability and capability as part of policy design.

Research & Development agenda for growth

Australia's policies to encourage research and development have been considered in multiple reviews and consultations since the current form of the research and development tax incentive (R&DTI) was introduced in 2011^{1,2,3,4,5,6}.

As a percentage of total GDP, Australian government R&D support lags behind the US, UK and Canada but is ahead of Japan, Germany and New Zealand.

Australia is unlike many other OECD member countries in that it provides minimal direct spending on R&D. Government support for R&D is primarily through the R&DTI⁷.

¹ Economics Legislation Committee, *Tax Laws Amendment (Research and Development) Bill 2013 [Provisions] report*, The Senate, Commonwealth of Australia, March 2014

² The Treasury, *Re:think Tax White Paper*, Commonwealth of Australia, June 2015

³ Office of the Chief Scientist, *Australia's STEM Workforce*, Commonwealth of Australia, March 2016

⁴ Ferris, B., Finkel, A. & Fraser, J., *Review of the R&D Tax Incentive*, Department of Industry, Science, Energy and Resources, 4 April 2016, Commonwealth of Australia

⁵ The Treasury, *The Tax Expenditures Statement* consultation paper, Commonwealth of Australia, October 2017

⁶ The Treasury, *Treasury Laws Amendment (Research and Development Incentive) Bill 2018 Exposure Draft*, Commonwealth of Australia, 2018

⁷ OECD, R&D tax expenditure and direct government funding of BERD, OECD R&D Tax Incentive Database, <http://oe.cd/rntax>, December 2019

The data indicates that there is much that can be done to encourage business innovation in Australia. We suggest that the Committee consider how best the government can contribute towards creating a stronger domestic culture of R&D and making Australia a major hub for R&D activities.

Other options to increase R&D activity by the FinTech/RegTech sector in Australia would be the establishment of a fund by Government that directly invests into R&D activity by the sector. An example of such a fund is the Hong Kong [Government's Innovation and Technology Fund](#), which amongst other things, provides matched funding support for local companies to conduct in-house R&D activities and to encourage the private sector to invest in R&D.

Consumer Data Right

The Major Accounting Bodies support, in principle, the policy intent of the Consumer Data Right (CDR) regime and providing easy pathways for non-accredited parties, such as accountants, to continue to receive banking data. However, accounting data, derived from banking data, appears to be captured within the regime and all parties need more time to consider the implications of this possibility.

We have previously stated that we wish to work with the Australian Competition and Consumer Commission (ACCC) and the Government to co-design a regime that achieves the policy intent and is easy to comply with. However, recent consultation periods on CDR rules have not provided sufficient time to make an appropriate assessment of the impact of the regime on consumers and those it intends to regulate. The indicative timeline to implement this regime needs to be extended.

Further, we need additional time to consult with other parties, especially our members and digital service providers (DSPs), to develop use cases to fully understand the impact this regime will have on our members, consumers, business and DSPs.

From our current understanding of CDR, recently proposed amendments increase the red tape burden on Authorised Data Recipients (ADR). We expect those burdens will flow through to our members, and then on to consumers and business.

This burden could lead to some ADRs choosing not to participate in the regime and withdraw from providing software to our members and business more broadly, heightening the risk of market concentration in the supply of accounting software.

Additionally, if the requirements that ADRs impose on unaccredited third parties, such as accountants, prove too burdensome and/or costly for those third parties, such service providers may choose not to receive CDR data, impacting their ability to continue to service consumers and small business. This may particularly be the case for smaller accounting practices – many such practices already operate on very tight margins, due in large part, to the cumulative costs of regulatory compliance. This would

also reduce the choice and availability of providers for business, particularly small business, and goes contrary to the intent of the regime.

The Major Accounting Bodies need additional time and engagement with the ACCC, Treasury, DSPs and our members to fully understand the potential impact of these rules. We are concerned that the rushed nature of recent consultations creates a significant risk of unintended consequences, which a pause in the development of these rules could help avoid.

Rollout into additional sectors

The Major Accounting Bodies recommend that consideration on the rollout of CDR into additional sectors be deferred until the implementation of the regime in the banking sector can be finalised and appropriately assessed.

Interacting with open banking data sharing schemes in other jurisdictions

The Major Accounting Bodies recommend that any formal consideration of establishing a framework to allow the interaction between Australia's CDR regime and the open banking regimes of other jurisdictions be delayed until the implementation of the Australian regime is finalised and appropriately assessed.

Data standards and blockchain

Digital Identity and MyGov

We strongly emphasise the need for intermediaries, including accountants, to be able to represent and interact with government systems on behalf of their clients. Many Australians choose to appoint an intermediary to undertake their interactions with government. Therefore, it is critical that intermediaries be part of the development of a single digital identity. The current language used around this development appears focused on the individual/entity, excluding the intermediaries sector.

Blockchain applications

Whilst we appreciate the significant work that organisations such as Standards Australia, Blockchain Australia and the Department of Industry, Science, Energy and Resources have undertaken in developing and establishing roadmaps, guidelines, frameworks and rules for the use and application of blockchain, we believe that legislation should be technologically neutral, sufficiently future-proof, and fit-for-purpose.

We are concerned that standards specific to blockchain would be incapable of capturing the constantly evolving possibilities and uses of other technology complementing blockchain. For instance, as blockchain's capabilities are limited⁸, it is

⁸ International Monetary Fund (IMF), 2020. Fintech Notes: Distributed Ledger Technology Experiments in Payments and Settlements.

likely to be complemented by other technologies such as robotic process automation (RPA), artificial intelligence (AI)⁹ and machine learning (ML).

How data is recorded on blockchains, assessed and analysed, may be dependent on RPA, AI and ML capabilities. As the use cases of those technologies are likely to intersect, we recommend identifying those themes that are common to technologies relevant to the provision of FinTech services and develop regulatory strategies in response to those common themes.

Data standards

Mistrust in FinTechs' ability to securely handle sensitive data could be an important barrier to overcome in the effective use and adoption of FinTech products and services. Mistrust is often derived from (perceived) insufficient cyber security.

FinTechs use digital solutions to provide financial services and are therefore exposed to high cyber threat levels. Policymakers and regulators should set rules and best practices with the aim of ensuring that the digital infrastructures used by FinTechs, including the Internet of Things, have a high level of cyber security.

As established financial service providers increasingly look to partner with FinTechs or to use their services, gaps between the cyber security capabilities of established providers and new FinTechs can present obstacles and challenges to collaboration. This can significantly affect the long-term success of FinTechs.

There are many suggested approaches to how FinTechs can make themselves cyber secure. Yet what is missing is a mutually understood and widely accepted baseline level of cyber security, which would not only help new FinTechs to develop cyber secure, market-ready solutions but also allow FinTechs to create trusted commercial partnerships with established firms and ensure compliance with relevant regulations.

We suggest that the Committee consider the possibility of introducing a mutually understood and widely accepted baseline level of cyber security. This would help FinTechs to demonstrate their cyber security level to clients and/or other businesses.

An effective cyber security base level framework should outline the basic cyber security measures to enable FinTechs to demonstrate adequate security maturity to a prospective client or other businesses, particularly where that client or business is subject to regulatory oversight. This framework should also provide guidance on the choice and implementation of a recognised set of cyber security controls for FinTechs. As FinTechs grow, they may have to enhance cybersecurity controls. The World Economic Forum¹⁰ has proposed a "tiered approach to cyber security controls", which

⁹ OECD, 2019. [Artificial Intelligence in Society](#), OECD Publishing, Paris.

¹⁰ World Economic Forum (WEF), 2020. [The Great Reset requires FinTechs – and FinTechs require a common approach to cybersecurity](#).

sets minimum and basic standards and controls, to which activity-specific controls and standards are added as FinTechs grow and specialise in the provision of particular services and/or products.

Access to capital

There are a range of policies that the Federal Government can pursue to make Australian start-ups more attractive to foreign investors, including expanding the scope and size of government co-investment funds and direct promotional activity.

However, care should be taken in seeking targeted amendments to the tax laws to achieve this aim. Such targeted measures may just add complexity to the tax system and potentially make broader reforms more difficult.

Skills and culture

Like corporate tax, Australia's individual tax rates are some of the highest in the world at the upper income levels and can significantly increase employment costs for professionals. Our view is that a reduction in the marginal tax rates for individuals should be considered as part of holistic tax reform, but we caution against the introduction of discriminatory tax rates, which favour one group of individuals over others.

Given the digital nature of FinTech and RegTech businesses, they have access to a global talent pool and employees do not necessarily need to be physically present in Australia. Policy considerations must therefore recognise the ability for Australian-based businesses to access comparable labour offshore. As such, they should not only be driven by attracting talent but also retaining talent within Australia. Whilst tax is one element influencing employment choices, other factors include industrial relations, the cost of living, ease of immigration, employment certainty and amenity.

For individuals operating in a global market, Australia's tax residency rules are significantly complex. We recommend the Committee consider the rules proposed by the Board of Taxation in its report to the Government, [*Reforming Individual Tax Residency Rules – A Model for Modernisation*](#), in March 2019.

We note that many technology start-ups may offer equity-based payment or compensation to their employees. We recommend the Committee consider the findings from the Standing Committee on Tax and Revenue in relation to its [*Inquiry into the Tax Treatment of Employee Share Schemes*](#) when completed.

Framework for ongoing for consideration of FinTech policy issues

The Major Accounting Bodies recommend that the government consider funding the establishing of a dedicated FinTech policy unit within an appropriate government agency to manage and liaise with the sector's stakeholders, and to formulate policies to establish Australia as a leading FinTech hub. Reference could be made to the FinTech team of InvestHK in Hong Kong.

If you have any questions about our submission, please contact either Gavan Ord (CPA Australia) at gavan.ord@cpaaustralia.com.au or Karen McWilliams (CA ANZ) at karen.mcwilliams@charteredaccountantsanz.com


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