Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
fintech.sen@aph.gov.au

Response to Question on Notice from Afterpay to the Senate Select Committee Inquiry on Financial Technology (FinTech) and Regulatory Technology (RegTech)

Dear Committee Secretary

Thank you for the additional opportunity to appear before the Senate Select Committee inquiry into Financial Technology and Regulatory Technology.

Please find below further requested information regarding measures to improve talent and skills attraction in Australia's financial services and technology sectors. Also included is information regarding Afterpay's recently announced banking partnership and regulatory settings for emerging banking-as-a-service business models.

Talent and Skills Attraction

1. **Improve awareness of existing visa programs and Australia as a career destination.** In Afterpay's experience top global tech talent do not fully recognise Australia as a place to grow their career in tech or the visa programs available to them. This should be addressed through targeted marketing campaigns, virtual roadshows and trade delegations. The Canadian Government's highly successful campaign to attract tech workers from the US is a proven example to draw from.

   Under the Global Business and Talent Attraction Taskforce, a global talent sourcing service could be established to bolster industry efforts to promote Australia and attract high value industry candidates. This would sit alongside and support existing programs including the network of Global Talent Officers.

2. **Improve flexibility in travel arrangements for visa holders.** In normal circumstances many tech employees can spend significant time in a foreign country but do not wish to change residency status. To address this, foreign residents should have the flexibility to conduct a reasonable amount of work in Australia, without needing to change residency status. One method to achieve this is introducing a Days-in Days-out (DIDO) system for taxing senior staff regularly travelling abroad.

As identified in the Australia as a Financial & Technology Centre Advisory Group (AFTCAG) Report, major fintech hubs including the UK and Singapore have a pro-rata tax system for people who travel frequently between different countries. This helps prevent the situation where tax is applied on 100% of earnings when the person is not in their primary location for much of the year and is therefore not using the social services that the Government provides during this time. This system could be implemented for Temporary Visa Holders to tightly target people who would demonstrably not otherwise be in Australia.

3. **Investigate temporary high-skill visas under the Talent program.** Under US law, US citizens who are Australian Permanent Residents must also file US tax returns and can be liable to pay additional incremental income tax in the US. This is a significant disincentive for many candidates to relocate to Australia. In lieu of changes to US law, providing more access flexible temporary high-skill visas could be used to address this.

4. **Reintroduce tax at grant rule for options purchase plans (and/or recognise US plans).** Companies with employees in the US offer options purchase plans that are taxed at the grant date. This means income tax is paid up front and further growth in share value only attracts capital gains tax. Australia abolished a similar 'tax at grant' rule in 2009. Reintroducing it would further attract individual talent and improve Australia's attractiveness as a location to start tech businesses. Currently US employees on these schemes are disincentivised to come to Australia as the shares/options that would only gain CGT in the US would attract higher income taxes in Australia**.**

5. **Broaden qualification criteria and simplify disclosure requirements for Employee Share Scheme (ESS) startup concessions.** This includes removal of or increasing the 10-year limit to recognise different maturity rates of new businesses. As well as doubling the $50 million turnover limit to accommodate low-margin, high-turnover businesses. Startup concessions could be applied to all entities to reduce administrative burden and significantly bolster Australia's attractiveness to overseas businesses.

6. **Financial Services Taskforce and industry awareness -** Government support for businesses seeking to expand globally is a key competitive advantage for Australia. As part of Afterpay's overseas expansion, the support of Austrade and the Department of Foreign Affairs and Trade has been highly valuable.

   As identified in the Australia as a Financial & Technology Centre Advisory Group (AFTCAG) Report, creating a Financial Services Taskforce within Austrade which promotes Australia as a regional headquarters and global financial sector can build upon these efforts. Afterpay would welcome the opportunity along with other private sector representatives to participate in this.

Competition in retail banking and emergence of ‘banking-as-a-service’

Afterpay has entered into a partnership with a major bank to provide money management tools, including a transactional bank account, through a white-labelled model. The partnership will leverage leading-edge cloud-based 'banking-as-a-service' technology to design a new customer experience, building on our existing active customer base of over 3.4 million Australians.

Afterpay is not building a neobank, but this money management offering called 'Money by Afterpay' will inject competition and much needed innovation into the market for retail banking services. Afterpay customers are used to a great customer experience with our pay-in-four product, and with Money by Afterpay this experience will be wrapped around a traditional bank, which provides the prudentially regulated balance sheet and ensures we meet bank-grade standards for security and privacy. Afterpay will also need to have a financial services license from ASIC.

Our strategy falls into the realm of what has historically been known as ‘white label' arrangements, where products manufactured by one entity are distributed under the brand or label of another. Common examples in Australia have been mortgages and credit cards.; examples exist in many other industries, such as telecommunications. Consumers benefit from additional choice, better customer experience and often lower cost, while being protected by the existing regulatory regime applicable to the product manufacturer/issuer.

By leveraging modern banking infrastructure, Afterpay is able to bring retail banking products to the market significantly faster. It can take up to two years or more for a bank to be created from scratch. But timing challenges aside, it is not clear that competition is best served by having new banks created from scratch. The recent news about some Australian neobanks demonstrates the significant hurdles that are faced by those seeking to disrupt markets by recreating the banking infrastructure that already exists. Even globally dominant technology companies are partnering with existing banks overseas in order to deliver banking services to consumers.

In the modern fintech ecosystem, the white labelling concept has been transformed into innovative partnerships between traditional and start-up organisations. Importantly, there is a range of different business models and technologies being tested around the world and in Australia. We see an explosion of examples today overseas, where diverse partnership models have emerged under different regulatory regimes. Many of these involve low-cost banking, savings and payment products with unique appeal in terms of building financial literacy, accessibility and flexibility for consumers and small businesses. Banking-as-a-service is the next phase in this evolution--a model that is growing in popularity because it is readily scalable and allows each organisation to do what it does best.

In Australia, the regulatory framework is more limited for innovative models than in some other countries. The current framework is largely based on historical concepts of how financial services have been provided and what consumer harms and other adverse outcomes (such as financial crime or sale of unsuitable products) regulation is designed to prevent. These concepts (such as 'deposit', 'credit', 'financial advice') become the basis of operational regulatory requirements. Over time, however, how these concepts are used in the market changes, yet the regulatory requirements are static and can become outdated.

Regulators themselves can be wary of new business models that complicate existing compliance and supervisory approaches. They can be suspicious of white labelling, digital-only and cloud-based offerings; and other products that don't fit clearly in traditional regulatory boxes.

Sharing of operational responsibilities can create complexities in how regulatory requirements are interpreted or applied. Regulated institutions may need to rely on activities of the brand/technology partner to meet certain regulatory obligations, such as for consumer disclosures or financial crime. The fact that the brand/technology partner is one or two steps removed from the regulator means that requirements can be unclear or inappropriate for the particular business model. The partner organisation often has no direct means of clarifying requirements with the regulator or seeking approval for alternate approaches that achieve the same objectives.

There are legitimate issues to be worked through, to ensure regulatory obligations are met and consumers are not confused as to which company they can go to if they have a problem. But to date, there appear to be fewer problems in white labelled services than in traditional financial services, as demonstrated through the Financial Services Royal Commission.

Importantly, the new design and distribution obligations (enforced by ASIC) ensure that issuers and distributions of financial products are producing good consumer outcomes, regardless of the business model being used. These obligations obviate the need for more prescriptive and outdated rules that hinder the ability for partnership-based business models to succeed.

Examples of areas where regulation can create barriers to digital and partnership-based business models include:

- Outdated or unclear concepts: for example, 'financial advice' which in the past has signified face-to-face or personalised interactions but now includes offering on-line, fully transparent products and services.
- Operational requirements, such as for open banking, which do not cater to partnership arrangements where customer data and privacy consents are jointly managed.
- Financial services license requirements which don't make sense for a basic digital banking product: financial advice training programs or remuneration requirements for staff.
- Differing interpretations of requirements around on-line customer onboarding across the banking industry.

- Doubling up on measures across the product issuer and product distributor: for instance customer identity verification and certain consents and disclosures. This may be appropriate in some operational models but may not be necessary in all.
- Prescriptive 'outsourcing' rules or limits on use of resilient cloud-based IT services.

As a result of COVID, sensible regulatory changes broadening the use of electronic communications have been made to accommodate new ways of interacting. However, more can be done. White-labelling partnerships is an area where the existing financial regulatory framework has not kept pace with evolving business models. While we don't expect this will materially hinder the industry's ability to launch new products such as Money by Afterpay, there is a risk that over time unnecessary costs and inefficiencies become entrenched. The framework should be modernised to promote efficient competition and innovation while still protecting consumers.

Afterpay appreciates the opportunity to provide further input into this important Inquiry. We would also like to thank the Committee for its ongoing work and focus on promoting Australia as a destination for FinTech and RegTech businesses.

Yours sincerely

Anthony Eisen
Co-Founder & Chief Executive Officer
Afterpay Limited