



SUBMISSION PAPER:

Submission to the Select Committee on the Second Financial Technology and Regulatory Technology Issues Paper

December 2020

*This Submission Paper was prepared by FinTech Australia working with and on behalf of its Members;
over 300 fintech Startups, VCs, Accelerators and Incubators across Australia.*



FinTech Australia

Table of Contents

About this Submission	4
Submission Process	5
Recommendations	5
Executive Summary	16
Tax Issues	16
Regulation	17
Access to Capital	22
Funding	22
Regulatory Culture	22
Talent acquisition and retention	23
Trade and International Policy	23
Framework for ongoing consideration of Fintech policy issues	24
Introduction	25
Tax issues	25
1.1 Competitiveness of Australia’s corporate tax settings	25
1.2 Research and Development agenda for growth	32
Regulation	38
2.1 Consumer Data Right	38
2.1.1 Arrangements with ‘Big Tech’ companies	38
2.1.2 Rollout into additional sectors	41
2.1.3 Future prospects for the CDR	43
a) Long term potential of CDR	43
b) Cross-border data economy	48
2.2 Data standards and blockchain	55
2.2.1 Blockchain applications	60
2.2.2 Digital Identity and MyGov.	61
2.2.3 Data security	63
2.3 Rules as Code	66
2.4 Know Your Customer regulations	69
2.5 The financial regulations landscape	71



FinTech Australia

Access to Capital	72
3.1 Managing shareholdings for startup founders	72
3.2 Funding	73
Skills and Culture	78
4.1 Regulatory culture	78
4.2 Talent acquisition and retention	81
Trade and international Policy	84
Framework for ongoing consideration of Fintech policy issues	85
Conclusion	86
About FinTech Australia	88



FinTech Australia

About this Submission

This document was created by FinTech Australia in consultation with its members, which consists of over 500 company representatives. In particular, the submission has been compiled with the support of our lead:

- Rebecca Schot-Guppy, FinTech Australia

We also like to thank the contribution of Jazz Osvald from FinTech Australia.

This Submission has also been formally endorsed by the following FinTech Australia members:

- Afterpay
- AgriDigital
- Archa
- Athena
- Banjo Loans
- Binance Australia
- Bleu
- BTC Markets
- Civic Ledger
- CoinJar
- Data Republic
- Entersoft
- Firstmac
- FrankieOne
- Link4
- loans.com.au
- FinnSS Global
- Longevity App



FinTech Australia

- Look Who’s Charging
- MoneyPlace
- Paypa Plane
- Reinventure
- savings.com.au
- Seed Space
- Sidefund
- Transferwise
- TrueLayer
- Volt
- Zip.co

Submission Process

In developing this submission, our members have engaged through email correspondence to ensure everyone had the opportunity to provide input on the issues relating to the downturn of the economy and its effects on the ecosystem.

Recommendations

No.	Recommendation	Section
1.	<i>Recommendation: Reduce the corporate tax rate and eliminate dividend imputation.</i>	1.1
2.	<i>Recommendation: Promote the ESIC tax incentives to ensure it is well understood and used appropriately.</i>	1.1



FinTech Australia

3.	<i>Recommendation: Implement incentives for companies to adopt innovative technologies or companies.</i>	1.1
4.	<i>Recommendation: Remove the finance-related activity test from the ESVCLP rules to allow Australian early-stage fintechs to compete for funding and grow on an equal basis with other tech sectors.</i>	1.1
5.	<i>Recommendation: Raise the cap on CGT exemptions so as to remove this Venture Capital-specific distortion.</i>	1.1
6.	<i>Recommendation: Harmonise the tax offsets provided by the ESVCLP and ESIC programs.</i>	1.1
7.	<i>Recommendation: Raise the ESVCLP tax offset, so as to bring it into line with comparable international programs.</i>	1.1
8.	<i>Recommendation: Provide explicit guidance to clarify when and how the R&D Tax Incentive applies to software development in relation to fintech businesses.</i>	1.2
9.	<i>Recommendation: Conduct a review of Innovation & Science Australia's conduct with regards to treatment of companies making a R&D Tax Incentive claim for software development.</i>	1.2



FinTech Australia

10.	Recommendation: “R&D activities” in the R&D Tax Incentive scheme should be interpreted by regulators, particularly ISA, to include R&D activities which contribute to building new and innovative services and addressing technical unknowns for the fintech sector, even where these are built on top of existing rails or the same or similar coding languages, developer tools and/or methodologies.	1.2
11.	Recommendation: Reduce large companies’ core R&D claims for in-house development and instead giving an R&D-like incentive to perform Proof of Concept work with early stage technology companies.	1.2
12.	Recommendation: Review the R&D Tax Incentive scheme to consider how the application, and regulator examination and audit processes may be simplified, made more transparent and contracted	1.2
13.	Recommendation: Increase the R&D Tax Incentive to 65% from 43%, and facilitate early access to R&D tax concessions	1.2
14.	Recommendation: Simplify the distribution of R&D Tax Incentives not through an application process, but by designing it as a business innovation deduction, or discount/cashback rate.	1.2
15.	Recommendation: Encourage and support smaller Fintech companies to collaborate with Big Tech in the CDR space.	2.1.1
16.	Recommendation: Recognise non-Australian accreditation	2.1.1



FinTech Australia

	<i>to accelerate the international adoption of CDR.</i>	
17.	<i>Recommendation: Develop data and consent management standards that allow for the CDR to become a consent management framework.</i>	2.1.1
18.	<i>Recommendation: Standardise data required by APRA to comply with superannuation requirements and facilitate this through the CDR.</i>	2.1.2
19.	<i>Recommendation: Designate superannuation funds as Data Holders.</i>	2.1.2
20.	<i>Recommendation: Implement the YourSuper tool within the CDR ecosystem as a Data Recipient.</i>	2.1.2
21.	<i>Recommendation: Implement a CDR-specific regulatory and technology MVP sandbox.</i>	2.1.3(a)
22.	<i>Recommendation: Provide a switching guarantee similar to the UK, and make switching applicable to all sectors;</i>	2.1.3(a)
23.	<i>Recommendation: Reform the Privacy Act to adopt fundamental building blocks of personal information, including the tokenisation of personal information, consent management and the right to be de-identified.</i>	2.1.3(a)



FinTech Australia

24.	<i>Recommendation: Data61 should collaborate with Standards Australia and industry to develop International Open Banking Standards.</i>	2.1.3(a)
25.	<i>Recommendation: Simplify CDR customer onboarding.</i>	2.1.3(a)
26.	<i>Recommendation: Promote competition in the market by providing a simplified pathway to accreditation the same as an ADI.</i>	2.1.3(a)
27.	<i>Recommendation: Implement a CDR education campaign to educate consumers about the CDR and its benefits upon the CDR's complete launch. This should include a Government stamp that accredited parties can include on their website.</i>	2.1.3(a)
28.	<i>Recommendation: Implement Government KPIs to track CDR success.</i>	2.1.3(a)
29.	<i>Recommendation: Implement sovereignty honouring data free trade agreements.</i>	2.1.3(b)
30.	<i>Recommendation: Reform the Privacy Act to industry aligned frameworks that concentrate on consent management, taxonomies and tokenisation of personal information.</i>	2.1.3(b)



FinTech Australia

31.	<i>Recommendation: Engage with the OpenID Foundation in respect of the CDR as requested in their open letter.</i>	2.1.3(b)
32.	<i>Recommendation: Adopt and support the development of existing blockchain and data standards, like those developed by the ISO under Technical Committee 307 Standards for Blockchain Technology, overseen by Standards Australia.</i>	2.2
33.	<i>Recommendation: Engage and participate on technical standards with industry stakeholders and Standards Australia to develop new standards which fill market gaps.</i>	2.2
34.	<i>Recommendation: Ensure that open source and interoperability is a primary goal of any standards adoption and development.</i>	2.2
35.	<i>Recommendation: Educate stakeholders internally within government, and in industry in regards to standards.</i>	2.2
36.	<i>Recommendation: Implement a digital data infrastructure that concentrates on open source and interoperable standards that supports the market in its development of blockchain solutions.</i>	2.2.1
37.	<i>Recommendation: Implement Digital ID with a focus on other infrastructure layers such as the tokenisation of</i>	2.2.2



FinTech Australia

	<i>personal information and consent management.</i>	
38.	<i>Recommendation: To build a trusted fintech ecosystem, industry and Government should come together to create a Federal level fintech cyber security working group which can define minimum national approaches for Australian fintech companies based on recommendations from International Cyber Security Standards and guidelines.</i>	2.2.2
39.	<i>Recommendation: Provide better support for cybersecurity training of employees and companies.</i>	2.2.2
40.	<i>Recommendation: Update cybersecurity guidances and regimes to match current technology and market expectations.</i>	2.2.2
41.	<i>Recommendation: Provide assistance to fintechs in the implementation of cybersecurity systems, potentially through a starter kit that clearly sets out accepted cybersecurity standards and implementations.</i>	2.2.2
42.	<i>Recommendation: Provide cybersecurity funding for fintechs to adopt a practical and multidisciplinary approach, combining technical IT cybersecurity guidance with business advisory, risk management and legal guidance on identifying cyber risks and responding to</i>	2.2.2



FinTech Australia

	<i>cyber breaches.</i>	
43.	<i>Recommendation: The Government should conduct a review in respect of its rule-making processes so as to implement a Rules as Code approach to their rule making. This should be supported by an open source standards regime and a digital data infrastructure that allows for interoperability.</i>	2.3
44.	<i>Recommendation: The AEC should provide access to electoral roll information to all companies that pass their own security verification to facilitate KYC checks.</i>	2.4
45.	<i>Recommendation: Pass the proposed Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Bill 2019, No. , 2019 (Cth) to facilitate shared KYC.</i>	2.4
46.	<i>Recommendation: Continue to explore deregulation within the financial services sector.</i>	2.5
47.	<i>Recommendation: Enact simplified regulation and a competition and innovation mandate for all regulators.</i>	2.5
48.	<i>Recommendation: Establish a formal process where companies can log a complaint to a central body when they believe they have been subject to uncompetitive behaviour</i>	2.5



FinTech Australia

	<i>by a regulator.</i>	
49.	<i>Recommendation: State and Federal governments should follow the Queensland model in championing innovation by creating an office of the chief entrepreneur and establishing a fund similar to the Business Development Fund and the Backing Queensland Business Investment Fund to co-invest in businesses.</i>	3.2
50.	<i>Recommendation: Give the AFF a specific mandate to direct some minimum portion of funding to the Australian fintech sector, through Australian venture capital investment managers.</i>	3.2
51.	<i>Recommendation: Implement funding regimes similar to those found in other states and overseas to support the fintech and startup ecosystem.</i>	3.2
52.	<i>Recommendation: The Government should invest directly in fintechs by becoming a customer.</i>	4.1
53.	<i>Recommendation: Provide assistance to fintechs in tapping into the markets in regional, rural and remote areas.</i>	4.1
54.	<i>Recommendation: The Government should be more pro-active in emerging sectors such as digital finance to</i>	4.1



FinTech Australia

	<i>allow for Australia to be a world leader.</i>	
55.	<i>Recommendation: Develop a regulatory landscape that supports fintech in a fashion similar to the FCA in the UK, or MAS in Singapore, rather than the current fragmented approach.</i>	4.1
56.	<i>Recommendation: When ASIC and other regulators consider financial sectors, a wide range of factors, including the effect of financial wellness broadly, and competition, should be considered.</i>	4.1
57.	<i>Recommendation: Introduce a Collaboration Premium which covers expenditure related to collaboration with publicly funded organisations as well as the employment of new STEM PhD or equivalent graduates.</i>	4.2
58.	<i>Recommendation: Introduce a scheme similar to that of Singapore’s Training Allowance Grant to aid in workforce training.</i>	4.2
59.	<i>Recommendation: Implement visa and sponsorship fast tracking.</i>	4.2
60.	<i>Recommendation: The Government leverage their \$9.6 million investment by facilitating partnerships between</i>	5



FinTech Australia

	<i>industry and government agencies.</i>	
61.	<i>Recommendation: The Australian Government enter into a FinTech Bridge style relationship with other APEC countries, with equivalent regulatory regimes, such as with the Monetary Authority of Singapore. The Government should also concentrate on countries that fintechs are expanding into, such as the United States, New Zealand and Canada.</i>	5
62.	<i>Recommendation: Dedicate more resources to the relevant teams at Austrade to support local fintechs inline with the assistance that the Department of International Trade grant UK fintechs.</i>	5



Executive Summary

This inquiry is more than just an opportunity to fine tune the policy environment in Australia for Fintech and Regtech. It is an opportunity for the industry's voice to be heard in a turbulent year, and an opportunity to make Australia a world leader in the areas of Open Banking, data, digital economy and blockchain. It is an opportunity to make Australia a global hub for fintech by crafting a positive and supportive policy environment that allows fintechs and regtechs to thrive.

We have provided the following recommendations after extensive consultation with our policy working groups, which contain over 500 company representatives. We believe that these recommendations are sensible, practical and innovative solutions that will allow Australia to become a leader in fintech, and a hub for growth.

Tax Issues

In relation to the tax issues presented in the Issues Paper, our members are of the position that the corporate tax rate is too high, particularly when compared to other countries. We support a reduction in the corporate tax rate, noting that a working paper published by treasury in 2016 noted that a reduction from 30% to 25% would encourage investment and increase capital stock and labour productivity. We are also of the position that the dividend imputation should be eliminated to encourage re-investment to fuel growth and innovation. Members have also noted that the early-stage innovative companies tax incentives should be better promoted, so that it is better understood and properly utilised. Additionally members have suggested additional incentives for companies to adopt innovative technologies or companies.

Members also noted the importance of removing the finance-related activity test from the Early Stage Venture Capital Limited Partnership ("**ESVCLP**") rules to allow Australia early-stage fintechs to compete for funding and grow on an equal basis with other tech sectors. It was also recommended that the cap on Capital Gains Tax ("**CGT**") exemptions be increased to remove



FinTech Australia

any Venture Capital-specific distortions that may occur. Members noted that tax offsets provided by the ESVCLP and Early Stage Innovation Company (“**ESIC**”) programs ought to be harmonised, and the ESVCLP tax offset should be increased to bring it into line with comparable international programs.

In respect of Research & Development tax incentive (“**R&D Tax Incentives**”), our members echoed much of what was recommended in our first submission to the Committee. Members would like more clarity surrounding “R&D activities” and “experiments”, and the applicability to software development. We have also recommended a review into Innovation & Science Australia’s (“**ISA**”) conduct with regards to the treatment of companies making a R&D Tax Incentive claim for software development, as members are of the opinion that the ISA does not consider software development to be innovative or meeting the programme’s definition of “R&D activities”. Rather, members have expressed that the ISA has a bias towards lab-based innovation. Further to this point, members have expressed that “R&D Activities” should be interpreted as activities which contribute to building new and innovative services, and addressing technical unknowns for the fintech sector, even when built on top of existing rails. Members have also recommended that large companies’ R&D claims for in-house development ought to be reduced and be replaced with an R&D-like incentive to perform proof of concept work with early-stage technology companies. The R&D Tax Incentive itself should be increased to 65% and payments should be accelerated. Additionally, the scheme’s administration and processes should be simplified. Some members have also recommended that simplification should come in the form of R&D Tax Incentive distribution not by application, but by designing it as a business innovation deduction, or a discount/cashback rate.

Regulation

Consumer Data Right

In relation to the Consumer Data Right (“**CDR**”) our members take the position that it would be counterproductive and ineffective to ban Big Tech companies from participating in the CDR.



FinTech Australia

Instead, we recommend that the Government foster a competitive environment whereby they support smaller companies in collaborating with Big Tech in the CDR space. Members have also recommended that the government consider recognising non-Australian accreditation to accelerate the international adoption of CDR.

Throughout our submission, there is a consistent theme of needing to establish a solid foundation of data standards. This can be seen further in the submission in relation to questions surrounding use of blockchain and implementation of Rules as Code. However, this is also vitally important to the national and international development of the CDR. One such set of standards to be developed would be data and consent management standards which allow for the CDR to become a consent management framework. This would enable uniform approaches to data usage and would enable consumers to use a range of tools to centrally manage their consents. The future prospects of the CDR are also intrinsically tied to the development of standards. Our members have expressed that Data61 should collaborate with Standards Australia and industry to develop International Open Banking Standards, so as to cement our position as world leaders in Open Banking. Members also support the Review of the Privacy Act¹ so as to effect changes that allow for the above, including the tokenisation of personal information, consent management and the right to be de-identified.

Members have recommended that the Government implement a CDR-specific technology and regulatory minimum viable product (“**MVP**”) sandbox to assist them in developing and testing products and services. A switching guarantee, similar to the one given by the UK Government, should also be given, and switching should be made applicable to all sectors. There was also support for a simplification of CDR customer onboarding, with many finding the current processes cumbersome. The Government should also promote competition in the market by providing a simplified pathway to accreditation the same as an Authorised Deposit-taking Institutions (“**ADI**”).

¹ Attorney-General’s Department, Review of the Privacy Act 1988, <https://www.ag.gov.au/integrity/consultations/review-privacy-act-1988>.



FinTech Australia

Members have also recommended that data required by the Australian Prudential Regulation Authority (“APRA”) to comply with superannuation requirement be standardised, and for this to be done through the CDR, to designate superannuation funds as Data Holders, and to implement the YourSuper tool within the CDR ecosystem as a Data Recipient. There should also be a concentrated education campaign targeted at consumers upon the CDR’s complete launch, which should include a Government stamp that accredited parties can include on their website. To measure the success of the CDR, the Government should also implement KPIs that track the number of companies using the CDR, and the number of Australians successfully connected to it.

As referenced above, our members also considered the international potential for the CDR. Our submission focuses on the possibility of a cross-border data economy which could integrate with the CDR. In achieving this, our members support the Review of the Privacy Act and recommend that the Privacy Act be reformed to industry aligned frameworks that concentrate on consent management, taxonomies and tokenisation of personal information. Members also recommended that the Government implement sovereignty honouring data free trade agreements, as well as engage with the OpenID Foundation in respect of the CDR in accordance with their open letter.

Data standards and blockchain

FinTech Australia and its members consider that the implementation of data standards is vitally important to the health and adoption of blockchain and other technologies by government agencies and the wider market. The most vital recommendation that members could give in respect of data standards is that open source and interoperability must be the primary goal of any Standards adoption and development. Additionally, we recommend that existing blockchain and data standards should be adopted and supported, such as those developed by the International Organisation for Standardisation (“ISO”) by Technical Committee 307 (“TC307”) under the oversight of Standards Australia. We also recommend that a Committee comprising industry stakeholders be formed that is overseen by Standards Australia to develop new



FinTech Australia

standards which fill market gaps. The Government should also educate stakeholders internally within Government, and in industry in regard to standards.

In respect of blockchain, our members recommended that the Government support the market in its development of market solutions by implementing a digital data infrastructure that concentrates on open source and interoperable standards.

Regarding Digital ID members noted that implementation of Digital ID would be a significant cost saver. The 2020 EY FinTech Australia Fintech Census (“**2020 FinTech Census**”),² noted that respondents believed that the development and implementation of Digital ID is vital in driving fintech and CDR adoption, payment innovation, and to support the rapid digitisation of businesses as a result of COVID-19. Members recommended that Digital ID be implemented with a focus on other infrastructure layers such as the tokenisation of personal information and consent management.

Data Security

To build a trusted fintech ecosystem, industry and Government should come together to create a Federal level Fintech cybersecurity working group which can define minimum national approaches for Australian fintech companies based on recommendations from International Cyber Security Standards and guidelines. Additionally, Members observed that cybersecurity guidances and regimes need to be updated to match current technology and market expectations. To meet cybersecurity requirements, members noted that the Government could provide assistance in their implementation of cybersecurity systems, potentially through better support for cybersecurity training, and starter kits that clearly set out accepted cybersecurity standards and implementations. Members also recommended that the Government provide cybersecurity funding for Fintechs to adopt a practical and multidisciplinary approach, combining

² 2020 FinTech Census.



FinTech Australia

technical IT cybersecurity guidance with business advisory, risk management and legal guidance on identifying cyber risks and responding to cyber breaches.

Rules as Code

Our submission Rules as Code discusses the term's two interpretations with reference to the Organisation for Economic Co-operation and Development's ("OECD") paper on Rules as Code. The first interpretation is that Rules as Code refers to the coded version of rules and laws, with the focus being on the output. The other interpretation, and the one which FinTech Australia considers more helpful to the implementation of Rules as Code broadly, is "the process of drafting rules in legislation, regulation, and policy in machine-consumable languages (code) so they can be read and used by computers." The distinction here is that instead of concentrating on the output, the focus is on how processes can be altered to facilitate the creation of machine consumable rules alongside natural language laws. Our recommendation is that the Government should conduct a review in respect of its rule-making processes so as to implement a Rules as Code approach to their rule making. This should be supported by an open-source standards regime and a digital data infrastructure that allows for interoperability.

Know Your Customer

In respect of Know Your Customer ("KYC"), FinTech Australia members considered that it would be beneficial for all companies that pass their own security verification to gain access to electoral roll information to facilitate KYC checks. Additionally, it is recommended that the Government pass the proposed *Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Bill 2019, No. , 2019* (Cth) to facilitate shared KYC.

The financial regulations landscape

FinTech Australia members have strong views surrounding the financial regulation landscape in Australia, and support the exploration of deregulation with the sector. Members are also in



FinTech Australia

favour of simplified regulation to ease regulatory compliance burden and decrease the barrier to entry, as well as the introduction of a competition and innovation mandate for regulators. Members also noted that they would find it beneficial if a formal process was established where a company could lodge a complaint to a central body when they believe they have been subject to uncompetitive behaviour by a regulator.

Access to Capital

When considering the proposed scheme that is similar to the Rule 10b5-1 trading plans in the US, our members were divided. While some noted that it would provide clarity to founders that wish to trade their own stock, others had concerns that implementing such a defence to insider trading may affect public perception of the market, and impact non-sophisticated investors that wish to enter the market. To make a recommendation, we would require more information about the proposed scheme.

Funding

Members consider a robust funding regime to be essential to the success of the fintech ecosystem. Members recommended that the Federal and State Governments should look to emulate initiatives such as Queensland's Business Development Fund and Backing Queensland Business Investment Fund, Victoria's recently announced Victorian Startup Capital Fund, and international funding regimes in the United Kingdom, France and the European Union.

Regulatory Culture

FinTech Australia members considered that the Government could support fintech in a variety of ways. The Government could invest directly in fintechs by becoming a customer, as well as provide assistance to fintechs who want to tap into regional, rural and remote markets. Members also considered that the Government should be more proactive in emerging sectors



FinTech Australia

such as digital finance, so that Australia could establish itself as a world leader, as it has with blockchain data standards. Members also recommended that the Government develop a regulatory landscape that support fintech in a fashion similar to the UK's Financial Conduct Authority (“**FCA**”) or the Monetary Authority of Singapore (“**MAS**”), rather than the current fragmented approach. Several members also noted that when Australian Securities and Investments Commission (“**ASIC**”) and other regulators consider financial sectors, a wide range of factors, including the effect of financial wellness broadly, and competition, should be considered.

Talent acquisition and retention

Members provided several recommendations that would aid in talent acquisition and retention. One recommendation is an R&D Tax Incentive collaboration premium which covers expenditure related to collaboration with publicly funded organisations as well as the employment of new STEM PhD or equivalent graduates. The Government should also introduce a scheme similar to that of Singapore's Training Allowance Grant to aid in workforce training, which will encourage fintechs to train and upskill their current staff. Members also noted that visa and sponsorship fast tracking would be greatly beneficial.

Trade and International Policy

Our members consider that the best way to leverage the Government's \$9.6 million investment would be to facilitate partnerships between industry and government agencies. Additionally, the Government should enter into a FinTech Bridge style relationship with other Asia-Pacific Economic Cooperation (“**APEC**”) countries, with equivalent regulatory regimes, such as with MAS. The Government should also concentrate on countries that fintechs are expanding into, such as the United States, New Zealand and Canada. More resources should also be dedicated to the relevant teams at Austrade to support local fintechs inline with the assistance that the Department of International Trade grants UK fintechs.



FinTech Australia

Framework for ongoing consideration of Fintech policy issues

FinTech Australia is supportive of the FinTech Advisory Group. The FinTech Advisory Group provides an important link to the Government to have many informal/formal discussions about the regulatory and cultural framework required to ensure that fintechs have the right policy and regulatory settings to scale and grow.



Introduction

FinTech Australia and its members would like to sincerely thank the Senate Select Committee (“**Committee**”) for the opportunity to respond to their second Issues Paper and the engagement we have had with the Committee since its inception. FinTech Australia considers this to be an opportunity for Australia to become a world leader in Open Banking, Data, Digital Economy and Blockchain, as well as an opportunity to refine our policy landscape to create an environment that allows for fintech and regtech to thrive.

We have set out below a table of our recommendations. In coming to our recommendations we consulted with all of our Policy Working Groups broadly, which consists of over 500 company representatives across various verticals in fintech, including consumer lending, cryptocurrency and blockchain, digital identification and consent management, neobanking, open banking, payments, small business lending and wealthtech. We hope that the Committee finds our submission informative, and we look forward to the final report.

1. Tax issues

1.1 Competitiveness of Australia’s corporate tax settings

The committee is interested in views on Australia's corporate tax settings in comparison with other countries. The committee is open to views on how to reduce effective rates of taxation to promote investment in technology, noting that this may not necessarily require the headline company tax rates to be adjusted. The committee is actively seeking views on global corporate tax models which best promote investment.³

³ Issues Paper 2, 2.



Corporate tax reduction

In relation to taxation more broadly, setting an overall favourable tax framework is key to business success. If the Government were to align Australia's legal and tax framework with international best practice it would attract increased international private capital investment and simplify the structures that make it difficult to attract foreign investment. One of the simplest measures is reducing the current corporate tax rate. The rate of 27.5% to 30% is high, particularly when compared with other countries, such as Singapore which has a corporate tax rate of 17%. Despite proposals to lower this rate, these have not been acted on. In May 2016, Treasury published a working paper analysing the long term effects of a company tax cut. One of the conclusions was that a corporate tax cut from 30% to 25% "encourages investment, which in turn increases the capital stock and labour productivity".⁴ Dividend imputation should also be eliminated to disincentivise dividend distributions within corporate Australia, and instead encourage more re-investment for growth to fuel investment in innovations and technology.

Recommendation: Reduce the corporate tax rate and eliminate dividend imputation.

Early stage innovation companies tax incentives

Another matter to be considered is the mechanism by which equity is taxed. Changes regarding the applicability or not of tax deferral mechanisms when employees are granted shares or options have been detrimental to the industry. Although improvements have been made for employee share schemes, there has been significant confusion. As the prospect of owning a stake in the business is a major incentive for talent to join uncertain fintechs, taxing shares as

⁴ The Treasury, *Treasury Working Paper: Analysis of the long term effects of a company tax cut*, (May 2016).



FinTech Australia

income is detrimental. Effectively it equates unlisted shares in an early company with uncertain valuation, with cash. This is a significant disincentive.

Another scheme which assists the industry is the ESIC tax incentive scheme. Qualifying companies must be incorporated in Australia, have total expenses less than \$1 million in the previous income year, assessable income of \$200,000 or less, and shares must not be listed on any stock exchange. In addition, the company must meet a 100 point innovation test or a principles based innovation test.⁵ However, this seemingly world leading scheme is neither well understood and, anecdotally, appears to be underutilised. More should be done to promote it.

Recommendation: Promote the ESIC tax incentives to ensure it is well understood and used appropriately.

Adoption incentive

Several members have suggested additional incentives for companies to adopt innovative technologies or companies. For example, a financial incentive to engage certain age companies, either new or small in size, during the procurement process. Such an incentive would increase adoption, while also creating more market demand.

Recommendation: Implement incentives for companies to adopt innovative technologies or companies.

Activity-based Restrictions on ESVCLP Eligibility

⁵ ATO, *Qualifying as an early stage innovation company*, <https://www.ato.gov.au/Business/Tax-incentives-for-innovation/In-detail/Tax-incentives-for-early-stage-investors/?page=2>.



FinTech Australia

The ESVCLP program is designed to incentivise investment in early-stage Australian businesses by providing a 10% tax offset and CGT exemptions to investors.

While early-stage fintech businesses were completely excluded from the ESVCLP program initially, this was recognised by the government in 2018 as a significant barrier for innovative, high-growth potential fintech start-ups. Legislative changes were made with the goal of ensuring support to fintech businesses. However, the enabling legislation still excludes key fintech-related sectors, specifically: “banking”, “providing capital to others”, “leasing”, “factoring”, “securitisation”, and “insurance”. Early-stage Australian businesses operating in these areas are prevented from accessing venture capital investment under the ESVCLP program.

According to the **2020 FinTech Census** 29% of Australian fintechs operate in “lending”, 30% in “payments, wallets and supply chain”, 18% in “wealth and investment”, 14% in “challenger/neo bank”, 10% in “asset management and trading”, and 5% in “insurance/insuretech”. This indicates that approximately half of Australian fintech start-ups are excluded from the ESVCLP program.

The activity-related restrictions create several potential issues for investors, and for the wider Australian economy. First, the current restrictions create uncertainty for investors about which businesses may or may not be eligible. This has led to investors declining to invest in fintech businesses that otherwise show great potential in the Australian market. This is further exacerbated by a lack of regulatory guidance around the ESVCLP program.

Additionally, legislative changes made in 2018 sought to make the development of technology for use in finance eligible, and so increase the eligibility of fintech businesses. However, this requires early-stage businesses to prove that 75% of employees, assets and revenue are primarily engaged in technology development. While on face-value this seems reasonable, the 75% threshold is extremely high, and the only businesses able to meet it are those who place no emphasis on commercialisation. In the case of early-stage businesses, many are at a



FinTech Australia

pre-revenue stage of development and have assets primarily in the form of cash. In these cases, demonstrating activities attributed to assets and revenue is either impossible, or imposes an immense regulatory burden on early-stage businesses. In effect, the legislative reforms of 2018 have failed to remove the barriers to participation for Australian early stage fintechs.

The final and most critical issue is the support of early stage fintech as an industry within Australia. At present, the Australian financial services sector as a whole accounts for 9% of Australian GDP,⁶ and creates over 450,000 jobs.⁷ It is both well established and highly profitable as a sector of the Australian economy, but it is being challenged by new global entrants and products.

Australian fintechs have shown a remarkable ability to develop innovative and popular products and services, and to compete in international markets. However, unlike the incumbents of the financial services sector, these early-stage businesses require support and investment to grow and compete on an international stage.

If investment in Australian fintech remains limited, there is a serious risk that the financial products and services used by Australian businesses and individuals will no longer be provided by Australian businesses. If this occurs, the financial sector could cease to be a cornerstone of the Australian economy, at a huge expense to jobs, exports and incomes.

Recommendation: Remove the finance-related activity test from the ESVCLP rules to allow Australian early-stage fintechs to compete for funding and grow on an equal basis with other tech sectors.

⁶ Reserve Bank of Australia, (2020, December). *Composition of the Australian Economy*. Retrieved from <https://www.rba.gov.au/snapshots/economy-composition-snapshot/pdf/economy-composition-snapshot.pdf?v=2020-12-14-11-16-01>.

⁷ Australia Bureau of Statistics, (2020, February). *Labour Force, Australia, Detailed, Quarterly*. Retrieved from <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed-quarterly/latest-release#data-download>.



FinTech Australia

Capital Gains Tax Exemption Limits

At present the ESVCLP program provides an exemption on capital gains up to a certain level – specifically the point at which an individual investee company has a total value of \$250m, regardless of size of the individual investment. This creates a unique problem for Venture Capital investors due to the distribution of returns. In the normal operation of a VC fund the majority of investments will only make a small return, and most of the total return will come from a small number of highly successful businesses. Effectively this means that the CGT exemptions are smaller for early-stage VCs than they appear. It is notable that the CGT exemption cap is not applicable to the VCLP program that is targeted at later-stage investments.

Recommendation: Raise the cap on CGT exemptions so as to remove this Venture Capital-specific distortion.

Distortion Caused by Different Tax Offset Rates Between ESVCLP and ESIC

An additional issue is the difference in tax treatment between the ESVCLP and ESIC programs. The Early Stage Innovation Company program provides similar tax offsets and CGT exemptions, but is targeted at investors who invest directly, rather than through a fund. The ESIC program provides a 20% tax offset, as opposed to the 10% tax offset under the ESVCLP program. This difference in tax treatment encourages investors to hold investments directly, disincentivises investors from holding a diversified portfolio, and has the potential to limit the number of businesses able to access investment funding.

Recommendation: Harmonise the tax offsets provided by the ESVCLP and ESIC programs.

Fintech Investment Support in the UK and Internationally



FinTech Australia

The UK is arguably the world's leading fintech hub, attracting over \$US50b in fintech investment in 2019⁸ (compared with \$US2b in Australia). This position has been advanced through a combination of tax incentives, financial support, and a long-standing collaboration between government, regulators and UK fintech industry bodies.

Amongst the UK's investment tax incentive programs, the Enterprise Investment Scheme ("**EIS**") provides investors with a 30% tax offset on investments up to £2m per annum, exemption from CGT,⁹ and the ability to offset other capital gains up to approximately 50% of individual annual EIS investment. Additionally, the Seed Enterprise Investment Scheme ("**SEIS**") provides a tax offset of 50% per annum for investments in early-stage businesses. These incentives are considerably more favourable than the Australian ESVCLP's 10% offset and CGT exemption that is capped at \$250m.

Internationally, many jurisdictions have programs similar to ESVCLP with more favourable terms, some examples include: In Japan, the Open Innovation Tax Credit ("**OITC**") provides a 25% tax offset of as well as CGT exemptions for foreign investors;¹⁰ In Germany, the INVEST program provides a 20% tax offset,¹¹ and in Ireland the Employment and Investment Incentive ("**EII**") provides a 40% tax offset.¹² In the US, the Qualified Small Business Stock ("**QSBS**") program provides investors with a CGT exemption of up to 100%.¹³

⁸ KPMG. (2020, September). Pulse of Fintech H1 2020. Retrieved from <https://home.kpmg/content/dam/kpmg/xx/pdf/2020/09/pulse-of-fintech-h1-2020.pdf>

⁹ HM Revenue & Customs. (2019, January). Tax relief for investors using venture capital schemes. Retrieved from <https://www.gov.uk/guidance/venture-capital-schemes-tax-relief-for-investors>

¹⁰ BDO. (2020, June). New "Open innovation tax incentive". Retrieved from <https://www.bdo.global/en-gb/microsites/tax-newsletters/world-wide-tax-news/issue-55-june-2020/japan-new-open-innovation-tax-incentive%E2%80%9D>

¹¹ Federal Ministry for Economic Affairs and Economy. INVEST - Grant for venture capital. Retrieved from <https://www.exist.de/EN/Network/Partners/Invest/inhalt.html>

¹² Revenue Ireland. (2019, March). The Employment and Investment Incentive (EII) Relief for Investment in Corporate Trades. Retrieved from <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-16/16-00-10.pdf>

¹³ Andersen Global. Qualified Small Business Stock (QSBS). Retrieved from <https://www.andersen.com/services/for-private-clients/business-owners-and-entrepreneurs/qsbs/>



Recommendation: Raise the ESVCLP tax offset so as to bring it into line with comparable international programs.

1.2 Research and Development agenda for growth

The committee is interested in ideas to further encourage R&D activities in Australia, to assist the tech sector to drive growth in the Australian economy.¹⁴

FinTech Australia and its members welcome the recent changes by the Government to R&D Tax Incentive in the 2020 Budget.¹⁵ However, we do not consider it to be enough.

The R&D Tax Incentive has been identified as the number one regulatory issue for fintechs in the fintech census for the past four years. The R&D Tax Incentive is the primary channel used by the Federal Government to reward and promote local innovation.¹⁶ The importance of the R&D Tax Incentive to the industry cannot be underestimated, as evidenced by the large number of fintechs who have successfully applied or are in the process of doing so. The 2019 EY FinTech Australia Fintech Census (“**2019 FinTech Census**”) identified that 64% of fintech had successfully applied for the R&D Tax Incentive.¹⁷ This number has dropped to 54% in the 2020 FinTech Census.¹⁸ Further to this, 2020 Fintech Census identified that 95% of fintechs indicate that the R&D incentive helps keep aspects of their business onshore,¹⁹ which has increased from 76% in the 2019 Fintech Census.²⁰ 93% of respondents to the FinTech Census 2020 indicated that the R&D Tax Incentive should be made more accessible to start-ups. An absence

¹⁴ Issues Paper 2, 2.

¹⁵ Australian Government, Budget 2020-21, <https://budget.gov.au/2020-21/content/overview.htm>.

¹⁶ 2019 FinTech Census, 35.

¹⁷ 2019 FinTech Census, 35.

¹⁸ 2020 FinTech Census, 23.

¹⁹ 2020 FinTech Census, 23.

²⁰ 2019 FinTech Census, 35.



FinTech Australia

of an effective R&D Tax Incentive scheme would significantly hamper innovation and monetisation of Australian fintech offerings.

Clarity in respect of “R&D activities” and “experiments” and applicability to Software Development

Feedback has also been received that the availability of accessing the R&D Tax Incentive depends on the changing and inconsistent interpretation of the programme's definition of “R&D activities” and “experiments”. The recent Moreton Resources decision, which found AusIndustry and the Administrative Appeals Tribunal had both taken an overly narrow interpretation of experimental activities, suggested that there are wider interpretations of “R&D activities” and “experiments” than current interpretation of legislative terms by program administrators. This could contribute to building new and innovative services for the fintech sector. For instance, there are examples amongst our members where new fintech services are created over the top of existing systems that may not be interpreted as “R&D activities” or “experimental” from an R&D Tax Incentive perspective despite the unique technology or application of that technology. This is particularly apparent where fintech operates within long established financial infrastructure. Ensuring that technological improvements to existing infrastructure are not negatively impacted under the R&D activity eligibility would drive research and innovation in the sector.

A key challenge of accessing the R&D Tax Incentive has been the restrictive view and interpretation the ISA has taken towards the applicability of the R&D Tax Incentive to software development. Put simply, it has been our member's experience that the ISA does not view software development as innovative or meeting the programme's definition of “R&D activities”, rather innovation and R&D activity needs to occur in a petri dish. That is, there is a strong bias from the ISA towards “laboratory based experiments” rather than innovation and R&D activities as it relates to software and data. This is especially challenging for fintechs whose business is built on software and data.



Additionally, larger companies are typically far more inefficient than smaller companies when it comes to software development. The R&D Tax Incentive scheme should reflect this efficiency disparity by reducing large companies' core R&D claims for in-house development and instead giving an R&D-like incentive to perform proof of concept work with early stage technology companies. Financially incentivising collaboration between smaller and larger companies would improve development efficiency and grow domestic technology capabilities, which in turn will lead to technology exports and growth in the overall ecosystem.

Recommendation: Provide explicit guidance to clarify when and how the R&D Tax Incentive applies to software development in relation to fintech businesses.

Recommendation: Conduct a review of Innovation & Science Australia's conduct with regards to treatment of companies making a R&D Tax Incentive claim for software development.

Recommendation: "R&D activities" in the R&D Tax Incentive scheme should be interpreted by regulators, particularly ISA, to include R&D activities which contribute to building new and innovative services and addressing technical unknowns for the fintech sector, even where these are built on top of existing rails or the same or similar coding languages, developer tools and/or methodologies;

Recommendation: Reduce large companies' core R&D claims for in-house development and instead give an R&D-like incentive to perform proof of concept work with early stage technology companies.

Improvement of Administration



FinTech Australia

Some members have noted that it takes too long for the refundable R&D tax offset to be received, creating cash-flow and investment issues. The administration of the current R&D Tax Incentive program is administratively cumbersome and typically requires engagement of a third party expert/accountant to access the R&D Tax Incentive. When coupled with what some fintechs experience to be a long application process to obtain the incentive it reveals that the way that the R&D Tax Incentive is administered may need to be reconsidered.

This creates a sort of paradox. Unless a business is innovative/disruptive in a traditional sense, administrators' narrow interpretation of R&D activity eligibility means increasingly limited ability to obtain the R&D Tax Incentive. But the more innovative the business practice, the harder it is for the business to obtain the other necessary services required to start up a business, such as accessing banking services.

Despite the widespread support, FinTech Australia members suggested the administration of R&D Tax Incentives could be improved. The system is not as easy to navigate as it should be even for established or large banks and fintechs. Working through the R&D application process has been described as a "costly challenge". Some members have noted that the complexity of the provisions and possibility of clawback is deterring R&D claims.

In addition, in recent years instead of promoting and encouraging R&D and innovation in Australia, both the ISA and the Australian Tax Office ("**ATO**") have taken an aggressive, adversarial approach to pursuing companies that are seeking to claim (or have claimed) the R&D Tax Incentive, including forcing companies to appeal a decision all the way to the Administrative Appeals Tribunal and beyond. While our members acknowledge that compliance examinations or audits are necessary to protect the integrity and fiscal affordability of the program, there are examples where review actions carry on for years, well beyond when the relevant R&D was undertaken.



FinTech Australia

This is a confronting experience for any size company but especially fintech startups who on one hand are reliant on the R&D Tax Incentive as a source of funding and to support their R&D in the absence of any other R&D funding, but do not have the funds or time available to defend their R&D Tax Incentive claim against the administrative power of regulators with proven changing and inconsistent goalposts.

This not only has a devastating impact on the businesses involved who had a genuine belief they were undertaking R&D but longer term adverse impact to Australia's economic prosperity where Australia's growth is narrowly based, and the outlook is now challenged. We have some members who have live matters before the Administrative Appeals Tribunal that have been going for up to five years. This is an unnecessary and resourcing consuming distraction, with many fintechs opting out of the R&D Tax Incentive altogether, offshoring R&D and overall experiencing a disincentive to invest in research and development, all of which is in contradiction to the policy intent of encouraging R&D in Australia and investment in Australia's future

The Australian Small Business and Family Enterprise Ombudsman, Review of the R&D Tax Incentive, December 2019 report found evidence of a shift in the interpretation of the R&D Tax Incentive legislation, narrowing the focus and leading to more claims being rejected, particularly in the area of software innovation.²¹

Recommendation: Review the R&D Tax Incentive scheme to consider how the application, and regulator examination and audit processes may be simplified, made more transparent and contracted;

Increase R&D Tax Incentive to 65% and accelerate payments

²¹ Australian Small Business and Family Enterprise Ombudsman, Review of the R&D Tax Incentive (December 2019)', <https://www.asbfeo.gov.au/reviews/rd-tax-incentive>.



FinTech Australia

An increase in the R&D Tax Incentive from 43% to 65% for the 2021 financial year would be beneficial, as well as facilitating early access to R&D tax concessions. An acceleration of R&D Tax Incentives would also prove beneficial to the fintech ecosystem. Waiting for businesses to submit new claims for the 2021 financial year would not provide benefits quick enough. Instead the Government should make immediate payments based on claims submitted for the 2020 financial year. A two times multiplier could be established for R&D with a focus on SMEs (applying, for example, those with a turnover up to \$50 million per financial year). This would provide immediate financial benefit to small and medium-sized enterprises (“SMEs”) in innovation intensive sectors, which in turn would support jobs and research.

Another member highlighted that often R&D tax rebate payments are made many months after a project is complete. This means companies need to find the funds before they can begin to work on their innovation. Having the money after the fact allows spending on other things, but does prevent projects moving forward due to a lack of upfront cash flow. Therefore, being able to apply for the R&D Tax Incentive at the beginning of a project would add clarity to the project scope and timeframes. It would mean more planning in advance and lead to tighter projects, but would also allow for the cash to begin the new concepts. This should be an optional path. Alternatively (or additionally) having R&D refund payments quarterly will also allow projects to continue during tough cash flow times of the build stage.

Recommendation: Increase the R&D Tax Incentive to 65% from 43%, and facilitate early access to R&D tax concessions

R&D Tax Incentives simplification

Some members have proposed that the R&D Tax Incentive regime be simplified where instead of fintechs going through an intensive application process which attracts overheads and delays, the scheme be designed as a business innovation deduction, and discount/cashback rate. The



FinTech Australia

removal of a submission, review and approval process would expedite the movement of R&D money to fintechs, which would have the ancillary effect of incentivising other companies to perform R&D.

Recommendation: Simplify the distribution of R&D Tax Incentives not through an application process, but by designing it as a business innovation deduction, or discount/cashback rate.

2. Regulation

2.1 Consumer Data Right

2.1.1 Arrangements with ‘Big Tech’ companies

The committee is interested in what kinds of measures may be required as the Consumer Data Right evolves in Australia to ensure that it increases competitive forces in Australia.²²

CDR and Big Tech

FinTech Australia and its members take the position that it would be counterproductive and ultimately ineffective to ban Big Tech companies from participating in the CDR. It would instead be far more effective if the Government were to assist and incentivise smaller entities to compete with Big Tech (such as through the introduction of the Affiliate & Sponsor model announced by the Australian Competition and Consumer Commission (“**ACCC**”). This would have the added benefit of promoting adoption of the CDR regime as a whole, as well as promoting competition in the market and fueling innovations and job growth. Such a regime

²² Issues Paper 2, 3.



FinTech Australia

could work in tandem with a simplified or reformed R&D Tax Incentives structure as suggested above.

Instead of taking an adversarial approach to preserving smaller fintech competition, FinTech Australia's members take the view that a collaborative approach would be much more beneficial to broader market adoption and competition. Such a collaborative undertaking could take many forms, but one such form as suggested by members was akin to a hackathon, whereby smaller fintechs and Big Tech companies work together to create CDR based solutions for business problems. Such solutions could be Government and industry funded, with the solutions being the focus of a showcase. This would allow for the fostering of new ideas and innovations and adoption, while also advertising to the market both domestically and internationally the Australia's Government's commitment to fintech innovation and their CDR competition mandate.

To accelerate the participation of international companies in the CDR regime, a recognition of non-Australian accreditation, perhaps through the lens of adequacy to the CDR regime, could be implemented.

Recommendation: Encourage and support smaller Fintech companies to collaborate with Big Tech in the CDR space.

Recommendation: Recognise non-Australian accreditation to accelerate the international adoption of CDR.

CDR as a consent management framework

Within the existing CDR, consent functions as a tool for getting access to the banking application programming interfaces (“**API**”). Our members see a much broader role for the CDR in relation to consent management. Today, the sharing of personal information is governed by Australia's privacy laws and data can flow in line with the purposes outlined in the privacy policy



FinTech Australia

of the collecting entity. This can mean a consumer's data passes through the hands of multiple intermediaries and service providers, in circumstances where consumers have little visibility or control.

Our members see an opportunity for the CDR to address this, as a tool for consumers to manage how their information is shared and to whom. This, after all, is at the heart of what it means for consumers to have rights in their data and goes directly to address the consumer trust erosion described above. This would require the development of data standards for consent itself, so that consent data could be shared in a consistent way, alongside the consumer data to which it relates. This would enable uniform approaches to data usage and would enable consumers to use a range of tools to centrally manage their consents.

As a consent management framework, CDR could enable:

- consistent ways of collecting consent and representing that consent when information is shared. This would involve a protocol for describing consent in a standard way and systemised tools for sharing that information; and
- embedding consent within consumer data at the point of sharing. Currently, an entity receiving data needs to make separate enquiries (and maintain separate records) about the provenance of data and the networks of collection statements and consents which led to its collation. If consent data was embedded within the data itself, the data would tell its own consent story and data recipients could simply interrogate the data to understand how it could be used.

Recommendation: Develop data and consent management standards that allow for the CDR to become a consent management framework.



2.1.2 Rollout into additional sectors

The committee is interested in whether the CDR could still assist and facilitate choice in the superannuation sector.²³

FinTech Australia and its members do not consider the introduction of the YourSuper tool in the 2020-21 Budget as a reason that CDR in the Superannuation industry should not be pursued. In fact, some members have raised the point that the YourSuper tool could operate within the CDR ecosystem as a Data Recipient, taking advantage of existing CDR rails, and allowing for a better integration with future implementations in the market.

Government should recognise that superannuation is a significant part of the financial services industry in Australia and implementation of CDR should be prioritised in this space. There does not appear to be any reason for its adoption in superannuation to be delayed following successful implementation in banking. To facilitate this, we encourage involvement from the superannuation industry in the design and roll out of CDR to the superannuation sector to ensure positive outcomes for all stakeholders.

In its 2018 report, *Superannuation: Assessing Efficiency and Competitiveness*, the Productivity Commission focussed on funds making better use of data to develop individualised member services, as this would allow them to better match products with member needs throughout their lifecycle.²⁴ Our experience is that superannuation funds are investing in data analytics tools and data capture, as they understand the benefit of capturing data about their members and the market. However, currently funds are focussed on collecting rather than sharing data, which

²³ Issues Paper 2, 3.

²⁴ Productivity Commission, *Superannuation: Assessing Efficiency and Competitiveness*, 21 December 2018, <https://www.pc.gov.au/inquiries/completed/superannuation/assessment/report/superannuation-assessment.pdf>.



FinTech Australia

limits the benefits that may be gained by members through increased competition in the superannuation sector.

As noted in our first submission to this inquiry,²⁵ APRA's attempts to provide further clarity regarding superannuation through the recently released Superannuation Fund Heat Map have been confusing and inconsistent.²⁶ The data provided has not been sufficiently standardised nor does it provide clarity to consumers. Implementing CDR in superannuation would achieve these aims and place the consumer in the centre.

Implementing CDR in superannuation has the potential to not only drive competition between funds, but also to allow members to present their financial data to funds and invite them to present a personalised "best offer" to the member. The funds would obtain a holistic picture of a member's financial position, allowing a fund to present the most appropriate product. This would empower members and spur competition in the superannuation market.

The implementation of CDR in super will also open up opportunities for financial advisors and service providers to act as intermediaries in obtaining the "best offer" for members. They may develop tools and services which can assist members to take advantage of their data and secure a tailored product which suits their current financial situation.

The benefits of applying CDR to superannuation extend beyond fee and insurance transparency. For instance, this may open up the ability for superannuation balances and contributions to be used to create new products and tools which ultimately positively benefit the financial outcome of Australians.

²⁵ Select Committee on Financial Technology and Regulatory Technology, FinTech Australia Submission, 37.

²⁶ Alan Kohler, APRA's heatmap makes me see red, The Australia, <https://www.theaustralian.com.au/business/apras-heatmap-makes-me-see-red/news-story/d5763aaaf6475ea60f9971ddeb55d1>.



FinTech Australia

To facilitate CDR in superannuation FinTech Australia members call for standardisation of data parcels required by APRA in the superannuation sector as soon as possible. Data rules should be developed to ensure transparency, consistency and comparability with fees, costs, investment options, investment performance and insurance. Additionally, FinTech Australia supports superannuation funds becoming designated Data Holders, so that they could gain access to streamlined ADR capabilities.

Recommendation: Standardise data required by APRA to comply with superannuation requirements and facilitate this through the CDR.

Recommendation: Designate superannuation funds as Data Holders.

Recommendation: Implement the YourSuper tool within the CDR ecosystem as a Data Recipient.

2.1.3 Future prospects for the CDR

Ideas on how to best leverage the long term potential of the CDR, in combination with other data reforms, are welcomed by the committee.

a) Long term potential of CDR

FinTech Australia and its members are also in support of the Government's work in creating a single data authority that overlooks areas that the CDR cuts across, such as the Digital Platforms inquiry in respect of unbundled consent, Digital ID through consent as an enabler, and digital economy agreements regarding common consent management protocols, data sovereignty and cross-border data trade.

MVP sandbox



FinTech Australia

Members have expressed interest in an MVP sandbox on which fintechs can use to show CDR value propositions. Similarly to ASIC's Enhanced Regulatory Sandbox, this would allow for fintechs to explore new products and innovations with more regulatory freedom. Such a scheme would ultimately promote competition as it would accelerate a fintech capacity to bring products and services to market.

A technology sandbox should also be owned and developed by the Government to allow these fintechs to test their technological functionalities cheaply and easily. By owning and standardising the sandbox, the Government eliminates a couple of issues. All providers each aren't offering the same product, and pricing will be controlled. For a start-up the costs and features make it difficult to enter the CDR space. The only other option for a company is to build your own sandbox which is even more expensive and fraught with danger. It would be preferred if there was a standard free sandbox for all fintechs to access. The current "middle man" approach may cause issues down the track.

Recommendation: Implement a CDR-specific regulatory and technology MVP sandbox.

Switching

FinTech Australia's members take the position that the Government should give a switching guarantee, similar to the UK.²⁷ This should apply not only to banking, but all industries and sectors. Entities that switch consumers through the CDR should also provide a monthly report that details switching data, such as how many consumers switched, in what sectors, who they switched from and who they switched to. This would not only increase adoption and encourage competition, but it would also provide valuable market data.

²⁷ Enhancing current account switching in the era of Open Banking, Pay.uk, 3; <https://www.currentaccountswitch.co.uk/Pages/Home.aspx>.



Recommendation: Provide a switching guarantee similar to the UK, and make switching applicable to all sectors;

Privacy Act Reform

FinTech Australia and its members support the Government's consultation into the Privacy Act. We take the position that the Privacy Act should be reformed to adopt fundamental building blocks of personal information, including the tokenisation of personal information, consent management and the right to be de-identified. The Consumer Data Right is a truly intersectional regime, touching upon the Digital Platforms inquiry in respect of unbundled consent, Digital ID through consent as an enabler, and Digital Economy Agreements regarding common consent management protocols, data sovereignty and cross-border data trade. A single data authority that ties all these areas together would greatly improve regulatory clarity and efficiency. We discuss this further below.

Recommendation: Reform the Privacy Act to adopt fundamental building blocks of personal information, including the tokenisation of personal information, consent management and the right to be de-identified.

Development of International CDR Standards

The Consumer Data Right is a world leading regime. Countries all over the world are looking to Australia when establishing their own Open Banking regimes. An important component of our regime are the Open Banking Standards being developed by Data61. FinTech Australia considers this work vitally important to the success of Open Banking and CDR. However, we believe there is an opportunity to leverage our already world leading position by developing International Open Banking Standards. Standards Australia are the peak standards body and are responsible for world leading blockchain and data standards (as discussed below). FinTech



FinTech Australia

Australia believes that the Government should consider developing International Open Banking standards with Data61, Standards Australia and industry at the helm to cement our position as world leaders in Open Banking. Our above recommendation to recognise non-Australian accreditation could also go towards promoting the CDR regime as an international standard, and prompting more international participation.

Recommendation: Data61 should collaborate with Standards Australia and industry to develop International Open Banking Standards.

Simplifying CDR onboarding

In its current state, the standard onboarding process designed by the ACCC is long and drawn out and must be repeated for each financial institution. While all compliance requirements are being covered from a legal standpoint, commercial success is not likely in its current state. One member flagged that they have a considerable amount of experience with customer onboarding via online forms and the longer the number of fields and pages a customer has to go through at onboarding, the more likely completion will not occur. At the moment the major concern for this particular member is that it is quicker for a customer to upload a bank statement. CDR in its current form isn't going to be fast or frictionless.

Recommendation: Simplify CDR customer onboarding.

Accreditation for smaller participants

Under the current regime, ADIs are at a competitive advantage. Large organisations, such as non-bank lenders, should have a simpler pathway to accreditation similar to an ADI. For example, one of our members is one of Australia's largest non-bank lenders. They have a prime loan book bigger than many smaller ADIs, but are still at a disadvantage to an ADI when it comes to the CDR accreditation process. Larger companies that have an Australian Financial



FinTech Australia

Services Licence (“AFSL”) and are a fully audited public company and pass a size test and/or proven track record test, should have a simplified pathway to accreditation the same as an ADI. Smaller participants could also be assisted with accreditation through the ACCC’s announced Sponsor & Affiliate model.²⁸

Recommendation: Promote competition in the market by providing a simplified pathway to accreditation the same as an ADI.

CDR education campaign

FinTech Australia is concerned about the current state of awareness and understanding of the CDR by consumers. We see considerable benefits for consumers from a security, service quality and price perspective. However, consumers and consumer groups appear to be reluctant to embrace these benefits. To remedy this, FinTech Australia and its members consider it important to launch an education campaign once the CDR has been rolled out completely across Data Holders, data holder products and we’ve seen significant uptake of ADR’s.

A broad education campaign may have merit, but would also need to be coupled with active participation and engagement by the existing data holders. These organisations have the capacity to greatly influence their customer base in favour of, or against, any new services built upon the CDR. Any education campaign should be targeted at a small number of extant concrete use cases.

The education material should be easily accessible to the consumer anytime. So, an user-friendly, crisp and compact website should be maintained. This website can be similar to Moneysmart website.²⁹ We also suggest a government stamp endorsing CDR would be

²⁸ [citation needed]

²⁹ Moneysmart, moneysmart.gov.au.



FinTech Australia

appropriate, which would be available to all accredited businesses to put on their websites. One member noted that in their experience the use of government stamps showing government regulation builds trust with a consumer.

Recommendation: Implement a CDR education campaign to educate consumers about the CDR and its benefits upon the CDR's complete launch. This should include a Government stamp that accredited parties can include on their website.

Government KPIs

One member has expressed that they believe that Government KPIs should be put in place to measure CDR success. The primary KPIs should be the number of companies using CDR and the number of Australians that have successfully connected to it.

Recommendation: Implement Government KPIs to track CDR success.

b) Cross-border data economy

The committee also seeks feedback on the potential for Australia's CDR to interact with open banking data sharing schemes in other jurisdictions (e.g. California, the United Kingdom and Singapore), and how this potential can be realised.³⁰

Sovereignty honouring data trade

Data is the 21st century equivalent of oil of the global digital economy and countries all over the globe have become heavily reliant on data flows, with this reliance only increasing. It is logical to

³⁰ Issues Paper 2, 3.



FinTech Australia

assume that the market and the jurisdictions operating in those markets will begin to impose a level of data sovereignty. This is something which FinTech Australia and its members consider to be inevitable. These positions of data sovereignty are often justified on the basis of privacy protections, national security and the preservation of core system integrity through forced on-shore operation.³¹ This necessitates the need to enable cross border trade of data in a way that honours data sovereignty.

One such way this could be achieved is outlined in Data Republic's submission to the Department of Foreign Affairs and Trade ("**DFAT**") in respect of Cross Border Data Exchange.³² Sovereignty honouring data free trade can be achieved through a kind of data sharing called Algorithm-to-Data. This approach allows for data producing nations to transact with data processing nations on more even footing by retaining their respective data market leverage. The submission sets out the following basic principles:³³

- Raw data is not transferred, or is only transferred temporally to a secure space (from which it cannot be extracted in its raw form) and held temporarily until processing is complete then deleted.
- Value is created out of data by applying algorithms to the data to generate an output.
- The output may be extracted and transferred freely.
- The custodian of the raw data set retains control over the raw data set and is able to realise repeat value from the raw data set without having to transfer control of the raw data set to the Data Processor.

³¹ Data Republic, Australia-Singapore Digital Economy Agreement: Submission on Cross Border Data Exchange, DFAT, 8, <https://www.dfat.gov.au/sites/default/files/data-republic-au-sg-dea-submission.pdf>

³² Data Republic, Australia-Singapore Digital Economy Agreement: Submission on Cross Border Data Exchange, DFAT, 8, <https://www.dfat.gov.au/sites/default/files/data-republic-au-sg-dea-submission.pdf>

³³ Data Republic, Australia-Singapore Digital Economy Agreement: Submission on Cross Border Data Exchange, DFAT, 10, <https://www.dfat.gov.au/sites/default/files/data-republic-au-sg-dea-submission.pdf>



FinTech Australia

This approach allows the data processors to generate value from a producer's dataset without retaining the raw data and continuing to generate value after a producer has ceased to enjoy a benefit.

The alternative approach is called Data Free Flow with Trust ("DFFT"). Launched by President Abe of Japan, DFFT proposes a free flow of data using a shared framework of data and privacy principles. However, this approach has been rejected by data producing countries such as India, Indonesia and Egypt, as DFFT disproportionately favours data processing nations. This is due to the fact that as data is transferred from data producers to data processors, the latter is able to capture all of the data's value repeatedly without any requirement or obligation to transfer value back to the data producer.³⁴ The Algorithm-to-Data approach solves this problem.

Recommendation: Implement sovereignty honouring data free trade agreements.

Privacy Act reforms

The above model may be a way to successfully engage with other countries in respect of a data economy that leverages CDR data. However, the success of this relies on a robust consent management framework and consent taxonomy, which are inextricably linked to any cross border data economy. In the event that data does not leave a jurisdiction in a data economy transaction, there needs to be a consideration of that data's associated outputs, insights and consents that presumably would need to move across jurisdictional boundaries. A common language or standard that allows for interoperability between jurisdictions in respect of consents is fundamental in facilitating a functional and efficient cross border data economy. A common approach to consent management and data free trade agreements is essential to have any potential for cross-jurisdictional CDR interoperability be realised.

³⁴ Data Republic, Australia-Singapore Digital Economy Agreement: Submission on Cross Border Data Exchange, DFAT, 9-10, <https://www.dfat.gov.au/sites/default/files/data-republic-au-sg-dea-submission.pdf>



FinTech Australia

FinTech Australia has submitted on this area in the Attorney General's Privacy Act Review, and we reiterate it here. With the Privacy Act Review and the Committee's focus on the data economy, we see a broad and significant opportunity to move away from the sole focus on a principles based approach to privacy in Australia (which promotes flexibility but embeds uncertainty) and to create a standardised framework system in regard to privacy compliance in Australia, including the following:

Industry aligned frameworks

There are differing views amongst our members in regard to this approach. However, some of our members have expressed strong views as to implementing a system whereby each industry group (for example, fintech) would have a simple framework that is built to align with the relevant industry, rather than a one size fits all approach that is currently adopted with the principles based privacy regime. This system would:

- ensure clarity of rights and expectations with regard to use of personal information;
- gain confidence of customers/clients, vendors and regulators;
- provide for robust business practices and a compliance culture;
- offer better risk management and response measures from businesses and industry groups; and
- ensure a system that allows for traceable consents and opt-ins and opt-outs in regard to data usage authorisations from individuals to whom the data relates.

The overarching goal of the framework system should be to enable the development of a vibrant and innovative data economy in a way that maximises the certainty, transparency, trust and security of individuals to whom the data relates. An added benefit of the system should also see a reduced need to seek technical legal advice in order to draft and advise on unclear collection statements and personal information use rights underpinned by a "flexible" but ultimately unclear regulatory framework, in effect reducing compliance costs.



The foundational principles of the framework system would consist of the following:

1. a consent management framework - this could enable:
 - consistent ways of collecting consent and representing that consent when information is shared. This would involve a protocol for describing consent in a standard way and systemised tools for sharing that information. If there is a standardised capture form field when collecting personal information, the expectation is that this would lead to a more streamlined approach and avoid the risk of privacy being breached if the third party can rely on standardised collection;
 - embedding consent within data at the point of sharing. Currently, an APP Entity receiving data needs to make separate enquiries (and maintain separate records) about the provenance of data and the networks of collection statements and consents which led to its collation. If consent data was embedded within the data itself, the data would tell its own consent story and data recipients could simply interrogate the data to understand how it could be used. This solution would need to ensure that the consent information can be shared without sharing identifiable details with potential recipients unless they are authorised to receive them; and
 - templates and links (similar to how some standard open source intellectual property frameworks are managed) to signify the "standard" uses based on a standardised consent. The data collector can then add their own amendments to show deviations from the standard operations. This is elaborated further in our responses to specific consent questions set out below;
2. standardising the form capture field when collecting personal information in a digital context - this will make digital transfers of personal information easier if businesses follow the same standardised protocols when collecting such information;
3. tokenisation by default - this has many benefits in promoting good privacy practice, including accuracy and security of information as well as data minimisation and anonymity to an extent. This could enable:



FinTech Australia

- removing superfluous personal information from the digital economy;
 - allowing shared services for storage and management of tokenised personal information. This would operate in a similar manner to how credit card tokens currently operate. The end result would be that the majority of businesses would not hold raw personal information, but instead hold tokens to access personal information as and when needed. In terms of holding the raw data in the token vault, there are two approaches that could be adopted:
 - an industry utility which is open source and funded at a low cost structure; or
 - an open market with multiple providers (similar to current card payment system compliance where multiple organisations offer tokenisation services); and
4. increased interoperability with international systems - this would enable transfers and sharing personal information with and from overseas jurisdictions (such as the European Union) in a simpler manner by removing barriers to transfers that are currently in place.

Other members have expressed a desire for a more general requirement for consistency across all industries, with some exceptions or modifications for requirements of a particular industry. For example, in the fintech industry, there is a desire for specific clear exceptions to permit the use of personal information for certain data analytics, regardless of whether consent is obtained or there is a widespread general expectation for use. This would be for purposes of fraud monitoring, improving services and improving security.

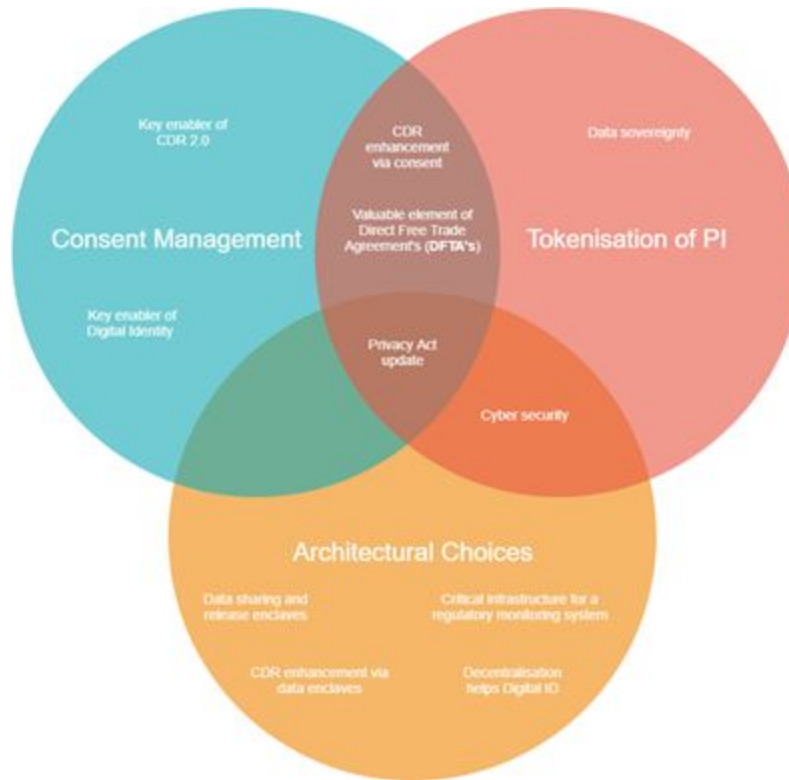
Principles based approach backstop

The principles based approach to privacy compliance would seek to operate as a backstop / line of protection for uses of personal information beyond the standardised framework. This would be similar in nature to the current privacy regime in Australia, with other changes made in our submission.



FinTech Australia

We anticipate this structure intersecting as follows:



Recommendation: Reform the Privacy Act to industry aligned frameworks that concentrate on consent management, taxonomies and tokenisation of personal information.

OpenID Foundation open letter to Australia



FinTech Australia

FinTech Australia and its members support the position taken in OpenID's Open Letter to the Australian Government that we engage with the OpenID Foundation in respect of the CDR.³⁵

Recommendation: Engage with the OpenID Foundation in respect of the CDR as requested in their open letter.

2.2 Data standards and blockchain

*The committee seeks feedback on what other areas of digital international standards should be prioritised by the Australian Government to best enable FinTechs, RegTechs and other Australian stakeholders in the private and public sectors to benefit in the long term.*³⁶

FinTech Australia and its members consider that the implementation of data standards is vitally important to the health and adoption of blockchain and other technologies by government agencies and the wider market. Before proceeding with our substantive recommendations, we will set out what is meant when we are discussing standards.

What are Standards?

It is important to set out exactly what we mean when we refer to standards so that our policy recommendations are clear. Standards Australia sets out a clear definition:³⁷

³⁵ OpenID Foundation, RE: OpenID Foundation Follow-up to ACDS on CDS, <https://openid.net/2020/11/18/openid-foundation-follow-up-to-acds-on-cds/>.

³⁶ Issues Paper 2, 4.

³⁷ <https://www.standards.org.au/standards-development/what-is-standard>



FinTech Australia

Standards are voluntary documents that set out specifications, procedures and guidelines that aim to ensure products, services, and systems are safe, consistent, and reliable.

They cover a variety of subjects, including consumer products and services, the environment, construction, energy and water utilities, and more.

To ensure they keep pace with new technologies, standards are regularly reviewed by Standards Australia technical committees.

There are also three levels of standards, international, regional and national. While standards are voluntary, they can be referred to by Commonwealth and State laws.

Standards have incredible benefits if implemented correctly. They boost the confidence of the market, as participants have increased confidence in products and services that are developed pursuant to standards. Standards also reduce barriers to international trade, for example where a product is made according to an international standard. Standards also allow for a reduction in red tape as they often enable easier compliance with regulation. This in turn fosters increased innovation as market barriers are reduced and products and systems become interoperable with other jurisdictional regimes.³⁸

Adoption of pre-existing standards

There is a monumental opportunity for Australia to entrench its world-leading status as a developer of international blockchain data standards. Standards Australia leads the ISO TC307 Standards for Blockchain Technology Technical Committee,³⁹ has developed foundational and

³⁸ Standards Australia, 'What is a Standard?', <https://www.standards.org.au/standards-development/what-is-standard>.

³⁹ ISO, "Standards by ISO/TC 307 Blockchain and distributed ledger technologies" <https://www.iso.org/committee/6266604/x/catalogue/p/1/u/0/w/0/d/0>.



FinTech Australia

widely adopted standards which cover vocabulary; privacy and personally identifiable information protection considerations; and an overview of and interactions between smart contracts in blockchain and distributed ledger technology. Standards Australia currently have another 12 standards under development. Where product or service moves into a vertical that already has a pre-existing standards regime, for example the IEEE Standards for Engineering,⁴⁰ or the W3 Standards,⁴¹ this standard should be considered and adhered to. In situations where standards need to be developed to fill market gaps, this could be done so by a committee of stakeholders with the guidance of Standards Australia. Not only is it essential for the Government to adopt these standards, FinTech Australia and its members urge the Government to actively support their development. Development of standards is a stakeholder driven process, and their adoption will enable the Australian market to be internationally compliant and allow adopters to build upon already solid foundations. Adoption of standards will improve consistency in data quality, and encourage innovation and development of new products and services.

The broad consistency in datasets and system implementation that standards enable, is key in the development of technologies such as blockchain systems, as it allows for the interoperability of datasets without requiring considerable manual labour in matching data across databases. To enable this interoperability between systems and datasets, FinTech Australia and its members recommend that the development and adoption of standards must have open source and interoperability between platforms as a primary goal. Standards must also be sufficiently broad to allow for industry flexibility, while also providing certainty and consensus. For example, developing a blockchain platform using an open source data standard, like the ERC smart contract standard,⁴² would enable consensus across multiple data sources with minimal manual intervention. An adoption of clear open source standards provides the market with certainty as to what a specific technology product's data means and how it can be used. One of our

⁴⁰ IEEE Standards Association, <https://standards.ieee.org/>.

⁴¹ W3, <https://www.w3.org/standards/>.

⁴² Ethereum Improvement Proposals, <https://eips.ethereum.org/erc>.



FinTech Australia

members has recently implemented a blockchain platform to manage trading of commodities which required interoperability with government and regulator databases. A lack of standards adoption in this specific sector meant that a significant amount of time was dedicated to deciphering and reconciling data in respect of customer identity. Since data standards had not been implemented, each government body knew what kind of data they needed under their respective regimes, but each interpreted definitions differently, which resulted in incompatible datasets. Had a standard been implemented, each system would have had interoperable and reconcilable datasets which would have reduced implementation and lead times, and slashed implementation costs.

The Productivity Commission Paper on Regulatory Technology noted that Standard Business Reporting is an example of regtech implementation who's success relied on structured and consistent data, which was only possible through an Australia Government developed taxonomy and list of data fields for use across government applications.⁴³ The Productivity Commission also noted that a lack of interoperability between IT systems and regtech solutions can significantly affect uptake, noting that 69% of bank executives said that the costs of reworking their legacy systems to allow for regtech integrations hindered their ability to respond to market change.⁴⁴ The Productivity Commission goes on to suggest that the government has a larger role to play in the regtech space,⁴⁵ which is a proposition that we whole-heartedly agree with. It is imperative that the government take an active role in not only crafting a policy environment that allows for regtechs, fintechs and other startups to flourish, but the government must also support the development of data standards, and an underlying digital data infrastructure that promotes interoperability upon which companies can build.

⁴³ Productivity Commission, Regulatory Technology, 23
<https://www.pc.gov.au/research/completed/regulatory-technology/regulatory-technology.pdf>.

⁴⁴ Productivity Commission, Regulatory Technology, 24
<https://www.pc.gov.au/research/completed/regulatory-technology/regulatory-technology.pdf>.

⁴⁵ Productivity Commission, Regulatory Technology, 21-7
<https://www.pc.gov.au/research/completed/regulatory-technology/regulatory-technology.pdf>.



FinTech Australia

Finally, we consider it vital that the Government concentrate on education in regards to standards, both internally within Government departments, and externally within industry. Standards cannot be effectively adopted and considered where stakeholders are not aware of their existence, or understand their importance. Educational material could be developed with the assistance of industry stakeholders and Standards Australia.

Another example of a key area of Government focus is the standardisation of personal information capture, consent management and the facilitation of data free trade agreements. Additionally, as noted above, FinTech Australia believes that the Government should consider developing international Open Banking standards with Data61, Standards Australia and industry at the helm to cement our position as world leaders in Open Banking and data standards.

Recommendation: Adopt and support the development of existing blockchain and data standards, like those developed by the ISO under Technical Committee 307 Standards for Blockchain Technology, overseen by Standards Australia.

Recommendation: Engage and participate on technical standards with industry stakeholders and Standards Australia to develop new standards which fill market gaps.

Recommendation: Ensure that open source and interoperability is a primary goal of any standards adoption and development.

Recommendation: Educate stakeholders internally within government, and in industry in regards to standards.



2.2.1 Blockchain applications

The committee is interested in the deployment of blockchain-based systems that assist people and businesses to deal with government more easily and efficiently.⁴⁶

FinTech Australia and its members believe that before the Government considers how blockchain can be used to solve problems, it should be considering how they can support the creation of these innovations. We consider that, as suggested above in 2.2, a Government driven shared digital data infrastructure that sets out data standards and focuses on open source implementation and interoperability is vital in promoting the development of regtech and fintech solutions.

A robust standards framework and digital data infrastructure would allow the market to quickly and efficiently develop technologies that are interoperable. Such an infrastructure could have the added benefit of preventing market fragmentation, and assist in the market cooperating. If we consider supply chain focused blockchains as an example, there are numerous blockchains on the market that all perform similar functions but track a different asset or commodity, such as mangos⁴⁷ or milk.⁴⁸ While FinTech Australia welcomes these new innovations, we are concerned that extreme market fragmentation without the ability for these platforms to be interoperable may damage the efficiency of these platforms and reduce the functionality of the underlying data.

⁴⁶ Issues Paper 2, 4.

⁴⁷ <https://www.ledgerinsights.com/australian-mango-farmers-in-blockchain-food-traceability-trial/>

⁴⁸

<http://mhdsupplychain.com.au/2020/09/01/blockchain-technology-to-protect-australias-dairy-supply-chain/#:~:text=The%20first%20phase%20of%20a,used%20in%20transport%20and%20logistics.>



FinTech Australia

Recommendation: Implement a digital data infrastructure that concentrates on open source and interoperable standards that supports the market in its development of blockchain solutions.

2.2.2 Digital Identity and MyGov.

The committee is interested in exploring the long term possibilities of how a single digital channel to government could streamline the interactions of businesses and individuals with government, and how it could be used to support novel applications.

Digital Identity Framework

The 2020 Fintech Census states that fintechs in the larger market are highly supportive of Australia adopting a Digital ID framework that is similar to those being implemented in other jurisdictions such as Asia and Europe.⁴⁹ Under Singapore's advanced digital identity system, individuals and businesses will be able to transact digitally with the Government and private sector can verify individuals through the Government's ID system in a secure manner before the end of 2020.⁵⁰ The distinction here is that Singapore's model is a public model, whereas we are proposing a public private model.

The 2020 Fintech Census identified that almost three in five (59%) respondents believe that a Digital ID would deliver cost savings to their organisation. These cost savings translate to an average of \$124,700 per annum. This figure includes respondents that expected no saving. 64% of respondents considered that a public and private model would work best. The 2020 Fintech Census notes that respondents believed that the development and implementation of Digital ID is vital in driving fintech and CDR adoption, payment innovation, and to support the rapid digitisation of businesses as a result of COVID-19. A Digital ID framework and a lack of

⁴⁹ 2020 Fintech Census, 19.

⁵⁰ 2020 Fintech Census, 19.



FinTech Australia

consumer confidence about identity privacy and control were identified as two of the largest issues that need to be tackled.⁵¹

Some members have expressed that the Government should focus on other infrastructure layers to help assist Digital ID, such as the tokenisation of personal information and consent management. Doing so will make the transition into Digital ID easier for the market and policy makers. For more information on tokenisation, please refer to our submissions above. Some members have also noted that Digital ID reforms should be considered a priority, as they are the best way to bring down the cost of onboarding fintech startups.

Recommendation: Implement Digital ID with a focus on other infrastructure layers such as the tokenisation of personal information and consent management.

*The committee is also interested in exploring the role of data in delivering seamless services to businesses and individuals and welcomes feedback on the innovative ways to achieve that.*⁵²

Other data capture

In relation to fintech processes, such as e-invoicing, a wide variety of data is captured. One potential use for this kind of data is to provide payment history. This data, for example, be used by loan organisations to give instant approval for business loans to support SMEs with their cash flow. Additionally, the Government could consider an approach whereby they publicly provide APIs to government agencies and let the market solve these issues through a marketplace.

⁵¹ 2020 Fintech Census, 19.

⁵² Issues Paper 2, 4.



2.2.3 Data security

The committee is interested in approaches to cyber security in the FinTech and RegTech space, and seeks comments on whether current industry practices and requirements in relation to data security are adequate.⁵³

While FinTech Australia supports the newly established NSW Cybersecurity Taskforce,⁵⁴ as cybersecurity is among the greatest priorities of our members, our position is that a federal level Cybersecurity working group would be far more beneficial. Approaching cybersecurity reform on a state level would only fragment developments in the space, as states would be approaching issues differently with differing lead times. This would result in an inconsistent application and development of cybersecurity policy, rather than the uniform policy that a federal working group would allow for.

FinTech Australia and its members consider this to be incredibly important for the future growth of the fintech ecosystem, as customer and transaction information is a fintech company's greatest asset. Financial and consumer data is a premium target for hackers, offering clear financial incentive for their malicious attacks. Keeping this data secure is a fintech company's biggest responsibility. In addition to regulation specific to fintech, issues such as cyber crime will be a significant focus for new players in the technology space. This takes a complex and systematic approach that addresses all the elements of cyber security.

We have seen from recent major systemic compliance issues in the banking sector including with respect to Anti-money Laundering and Counter Terrorism Financing (“**AML/CTF**”), that existing financial crime risk management is broken. Failure to adopt appropriate IT systems

⁵³ Issues Paper 2, 5.

⁵⁴ NSW Government, 'New cyber task force to drive standards' (22 June 2020) <https://www.nsw.gov.au/media-releases/new-cyber-task-force-to-drive-standards>.



FinTech Australia

was criticised in part. This indicates that there is increasing focus on the technology used to mitigate risks in financial services.

Global investment in fintech was at \$150.4 billion in 2019; investments in the Australian Fintech sector saw a 150% increase compared to its previous year. Fintechs handle highly sensitive financial data (e.g. P2P lending, consumer data right data). So it is critical for fintechs to have a good understanding of cybersecurity risks and controls to build secure and trusted systems.

Early investment into security can be a massive selling point for a fintech and give investors, partners, and consumers more confidence in the fintech ecosystem. As a new field, fintechs have an opportunity to embed security into their organisations and working culture from day one. Security can be built from the ground up. Sadly, fintechs sometimes see cybersecurity as an impediment as they do not have budget, do not understand where to start, do not know what to protect or who to trust or ask for help, etc. This makes achieving absolute security for new technologies extremely difficult and costly.

Some members have also highlighted that company and employee education is incredibly important, and that more Government support is needed with cybersecurity training.

Many of our members have recommended that we look towards international standards development, and develop our own up to date guidelines that companies can refer to and follow when implementing their cybersecurity systems. Many members noted that current regimes and guidance are outdated and not realistic with current systems and market expectations. Members also recommended that the Government assist fintechs in the implementation of cybersecurity systems, potentially through a starter kit that clearly sets out accepted cybersecurity standards and implementations.

The Security Legislation Amendment (Critical Infrastructure) Bill 2020 (Cth) provides a good set of guidelines for fintechs to follow but still is one of many various regulatory requirements that



FinTech Australia

make it difficult for fintechs to comprehend. To simplify the process a Federal level fintech cybersecurity working group would help promote the awareness of potential cyber-crimes related to the use of technology, technical infrastructure and business reputation with a vision to aid in engagement with regulators, industry and raise the awareness of cybersecurity within the fintech ecosystem.

Recommendation: To build a trusted fintech ecosystem, industry and Government should come together to create a Federal level fintech cybersecurity working group which can define minimum national approaches for Australian fintech companies based on recommendations from international cybersecurity standards and guidelines.

Recommendation: Provide better support for cybersecurity training of employees and companies.

Recommendation: Update cybersecurity guidances and regimes to match current technology and market expectations.

Recommendation: Provide assistance to fintechs in the implementation of cyber security systems, potentially through a starter kit that clearly sets out accepted cybersecurity standards and implementations.

Recommendation: Provide cybersecurity funding for fintechs to adopt a practical and multidisciplinary approach, combining technical IT cybersecurity guidance with business advisory, risk management and legal guidance on identifying cyber risks and responding to cyber breaches.



2.3 Rules as Code

The committee seeks feedback on priority areas for implementing a 'Rules as Code' vision and how this can be accelerated.⁵⁵

FinTech Australia and its members believe that for Australia to have an effective Rules as Code implementation, the previously mentioned digital data infrastructure and data standards, with a focus on open source and interoperability, must be put into practice. Before considering how the market could implement Rules as Code, it is vital that first the Government lay a foundation which Rules as Code can develop, which includes a consideration of what Rules as Code means, and where it is and is not suitable to be used. A set of data standards, as well as publicly available government APIs would greatly assist the market in developing Rules as Code tools and products that could interact interoperably.

There are several interpretations as to what is meant by Rules as Code. One interpretation is that Rules as Code refers to the coded version of rules and laws, with the focus being on the output.⁵⁶ The other interpretation, and the one which FinTech Australia considers more helpful to the implementation of Rules as Code broadly, is

'the process of drafting rules in legislation, regulation, and policy in machine-consumable languages (code) so they can be read and used by computers.'⁵⁷

⁵⁵ Issues Paper 2, 5.

⁵⁶ James Mohun and Alex Roberts, 'Cracking the code: Rulemaking for humans and machines', OECD, OECD Working Papers on Public Governance No. 42, 16-7
https://www.oecd-ilibrary.org/governance/cracking-the-code_3afe6ba5-en.

⁵⁷ James Mohun and Alex Roberts, 'Cracking the code: Rulemaking for humans and machines', OECD, OECD Working Papers on Public Governance No. 42, 17
https://www.oecd-ilibrary.org/governance/cracking-the-code_3afe6ba5-en.



FinTech Australia

The distinction here is that instead of concentrating on the output, the focus is on how processes can be altered to facilitate the creation of machine consumable rules alongside natural language laws. The first interpretation involves the publication of natural language forms, such as legislation, rules and regulations by the government, and the subsequent interpretation by end users into machine consumable versions.⁵⁸ The second interpretation involves governments creating official machine consumable coded rule versions of natural language laws from the outset. These would be published publicly and available for use by end users, thereby removing any inconsistencies introduced by an end user's interpretation of how rules should be translated into a machine consumable format.⁵⁹ The OECD notes in their paper on Rules as Code that *'in order [for this] to be done effectively, it requires revisiting every step of the rulemaking process, conceiving of rules as a digital product and service from the outset, rather than as an expression and manifestation of policy intent that will then be enacted accordingly, including through digital means.'*⁶⁰

FinTech Australia considers the ultimate goal to be machine consumable rules that are released alongside natural language rules by the government, perhaps supported by the availability of an API. Doing so will remove any interpretation risk or translation gap, achieve effective and consistent compliance with regulation and more efficient implementation of systems and reduce costs associated with compliance. Compliance costs can be significant, with Deloitte estimating in 2014 that the *'combined cost of administering and complying with public and private sector bureaucracy'* cost \$250 billion every year.⁶¹

⁵⁸ James Mohun and Alex Roberts, 'Cracking the code: Rulemaking for humans and machines', OECD, OECD Working Papers on Public Governance No. 42, 17-8
https://www.oecd-ilibrary.org/governance/cracking-the-code_3afe6ba5-en.

⁵⁹ James Mohun and Alex Roberts, 'Cracking the code: Rulemaking for humans and machines', OECD, OECD Working Papers on Public Governance No. 42, 18
https://www.oecd-ilibrary.org/governance/cracking-the-code_3afe6ba5-en.

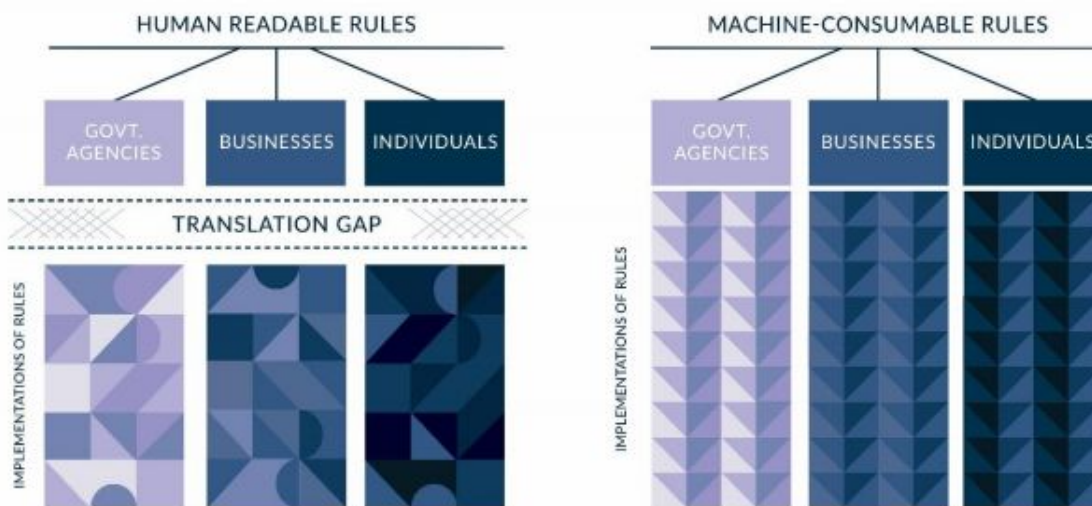
⁶⁰ James Mohun and Alex Roberts, 'Cracking the code: Rulemaking for humans and machines', OECD, OECD Working Papers on Public Governance No. 42, 19
https://www.oecd-ilibrary.org/governance/cracking-the-code_3afe6ba5-en.

⁶¹ James Mohun and Alex Roberts, 'Cracking the code: Rulemaking for humans and machines', OECD, OECD Working Papers on Public Governance No. 42, 17
https://www.oecd-ilibrary.org/governance/cracking-the-code_3afe6ba5-e; Deloitte (2014), Get out of your



FinTech Australia

Figure 2.2. Consuming rules



Note: With only a natural language, human readable form of government rules, entities have to interpret and translate rules into coded forms (which can create inconsistencies or errors) multiple times. Figure 2.2 Shows how creating an official, machine-consumable version of rules could enable their more consistent consumption and use by government (and its agencies), business and people by minimising the translation gap.

Source: James Mohun and Alex Roberts, 'Cracking the code: Rulemaking for humans and machines', OECD, OECD Working Papers on Public Governance No. 42, 20 https://www.oecd-ilibrary.org/governance/cracking-the-code_3afe6ba5-en.

For the above to be effective, it must be underpinned by a robust digital data infrastructure and standards regime as discussed above, with the goal of giving businesses flexibility so as to allow for the implementation of new technology solutions that provide certainty. The CDR is an area that members have identified would be ideal for implementation of Rules as Code. This could work in tandem with Data61's development of the CDR standards, and our proposal that Data61, Standards Australia and industry develop international CDR standards. Effective implementation would also rely on considerations such as whether the machine consumable

own way, Deloitte, <https://www2.deloitte.com/au/en/pages/building-luckycountry/articles/get-out-of-your-own-way.html>.



FinTech Australia

code, or the natural language law should be considered the authoritative version where there is a discrepancy between the two. Issues such as these would need to be considered to give market participants and adopters certainty in their operation.

Recommendation: The Government should conduct a review in respect of its rule-making processes so as to implement a Rules as Code approach to their rule making. This should be supported by an open source standards regime and a digital data infrastructure that allows for interoperability.

2.4 Know Your Customer regulations

The committee will examine proposals in this area, and how it interacts with other areas of reform such as Digital Identity.⁶²

Access to AEC data for Know Your Customer checks

One particular area which needs to be considered is access to information provided by ASIC for the purposes of conducting KYC. For instance, in Australia the AEC (“**Australian Electoral Commission**”) provides exclusive use of electoral roll data to two companies: Equifax and Illion. As a result, it costs \$1.20 to conduct this check. An equivalent electronic verification check in the UK costs £0.30. This reduces competition and increases prices. Similarly, the costs to access documents regarding the beneficial ownership of a company, including with respect to its directors, its shareholders and possibly shareholders and directors of any shareholder itself, from ASIC registries are comparably high. Equifax and Illion charge between \$10-20 for this information. As this is held in government registries some have expressed a view that it should be more readily and cheaply made available.

⁶² Issues Paper 2, 5.



FinTech Australia

Recommendation: The AEC should provide access to electoral roll information to all companies that pass their own security verification to facilitate KYC checks.

Shared KYC

Over 74% of fintechs indicated support for a cross-industry solution to share know-your-customer and identity validation information.⁶³ The Open Banking Report noted that “Identity verification processes in financial services (often referred to as ‘know-your-customer’ or ‘KYC’ data) are slow and cumbersome and involve significant duplication.”⁶⁴ FinTech Australia members have noted that providing a solution which allows for transferable or shareable KYC will allow both banks and fintechs to provide a wider range of financial services.

Members also see merit in a suspected or confirmed fraud sharing regime between accredited providers (similar to the ABA Data Sharing protocol on former employees)⁶⁵ to ensure providers have access to appropriate fraud intel so as to reduce the incidence of fraud and financial crime being perpetuated in the Australian financial system

The Government has proposed *Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Bill 2019, No. , 2019* (Cth)⁶⁶ which will, amongst other things, amend the AML/CTF Act to allow reporting entities to rely on the collection and customer identification procedure of another reporting entity in circumstances where it is reasonable to do so, and they have entered into a written agreement to rely on these arrangements. These measures follow recommendations from a review conducted by the Financial Actions Taskforce and will align Australian laws with internationally accepted standards.

⁶³ 2019 FinTech Census, 30.

⁶⁴ *Review into Open Banking: giving customers choice, convenience and confidence* (December 2017), <https://treasury.gov.au/sites/default/files/2019-03/Review-into-Open-Banking-For-web-1.pdf>, p.38.

⁶⁵ Australian Banking Association, Conduct Background Check Protocol, <https://www.ausbanking.org.au/conduct-background-check-protocol/>.

⁶⁶ <https://www.legislation.gov.au/Details/C2019B00204>.



Recommendation: Pass the proposed Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Bill 2019, No. , 2019 (Cth) to facilitate shared KYC.

2.5 The financial regulations landscape

FinTech Australia and its members support the Government's efforts to identify areas that require deregulation, as members have expressed that they believe companies in financial services spaces are over regulated, with different regulators having a narrow mandate. This is particularly difficult when you are a company that falls under multiple regulatory bodies. Regulation in Australia is fragmented and not focussed on innovation and does not foster competition, in fact it can somewhat stifle it. The biggest hurdle and impediment to smaller and emerging fintechs is the volume, complexity, pace of change and evolution and associated prohibitive cost of compliance associated with current financial regulation. This compliance cost places smaller fintechs at a competitive disadvantage and favours larger, more established players, ultimately resulting in stifling of innovation.

We support simplified regulation and a mandate to all financial regulators to support innovation and competition. One suggestion we have here is to have a formal process where companies can log a 'complaint' to a central body when they believe they have been subject to uncompetitive behaviour by a regulator. Just like consumers can make complaints to a financial ombudsman like AFCA, companies can make a complaint about non competitive behaviour by a regulator. The case must be supported by evidence and investigated with a reportable outcome. With clear reporting, systemic and specific problems hindering competition will be identified quickly.



Recommendation: Continue to explore deregulation within the financial services sector.

Recommendation: Enact simplified regulation and a competition and innovation mandate for all regulators.

Recommendation: Establish a formal process where companies can log a complaint to a central body when they believe they have been subject to uncompetitive behaviour by a regulator.

3. Access to Capital

3.1 Managing shareholdings for startup founders

To this end, the committee is interested in feedback on the potential for a scheme similar to the Rule 10b5-1 trading plans available in the United States (US) to be offered in Australia.⁶⁷

There was some division and uncertainty among our members as to whether this should be supported. On the one hand, it would provide clarity to founders that would wish to trade their own stocks. On the other hand, there are concerns that implementing such a defence to insider trading may affect public perception of the market, and impact non-sophisticated investors that wish to enter the stock market. Additionally, it is important to note that the US stock market differs greatly to that of Australia, and may not respond as intended if the Government were to import regulation that was crafted for the US market.

⁶⁷ Issues Paper 2, 5.



FinTech Australia

While members agree that this would benefit founders, and may attract companies to float on the Australia market, we require more information as to how the scheme would work such as details regarding to whom these trading plans are reported and who is responsible for clearing these trading plans.

Members also expressed concern that this may create a new market for founder share watching, where businesses would exist solely to watch what founders are doing, and how they are reacting to the market, and the effect these will have on their shares and shareholders.

3.2 Funding

Business Development Fund

State and federal government should look to the example set by Queensland to promote innovation through Advance Queensland, which is described as

“Advance Queensland is our vision for the future and investment in a stronger Queensland economy. This \$755 million innovation initiative is supporting programs and activities that drive innovation, build on our natural advantages, and help raise our profile as an attractive investment destination.”⁶⁸

As part of this initiative, Queensland has created the role of the Chief Entrepreneur to promote Queensland as a destination for entrepreneurship and innovation, and support the ecosystem. The office was established in 2016 and the current Chief Entrepreneur is Leanne Kemp, CEO and founder of Everledger. In addition to being a point person to promote Queensland and mentor select companies, this provides resources for all in the innovative sector. The Advance Queensland website includes information regarding events and opportunities in the sector with

⁶⁸ Advance Queensland, *About Advance Queensland*, <https://advance.qld.gov.au/about#:~:targetText=Advance%20Queensland%20is%20our%20vision,as%20an%20attractive%20investment%20destination>.



FinTech Australia

accelerators, courses, events all advertised. This initiative is broader than fintech and extends to all forms of innovation. Since 2016, the Business Development Fund has provided early stage co-investment funding to Queensland-based businesses. The fund has supported the growth of more than 60 Queensland emerging industry businesses, and has supported the creation of over 400 new jobs.⁶⁹ The Queensland Labour Government has also established the Backing Queensland Business Investment Fund, which will invest a further \$500 million into Queensland business and industry. The fund will target SMEs based in Queensland that have a proven product and defined market opportunity, but require significant capital to scale or grow market share. These companies must also be relatively mature, be either profitable or approaching profitability, and among other things, be seeking capital to expand or restructure operations, enter new markets or finance significant acquisitions.⁷⁰

The Victorian Government has recently unveiled a further \$60.5 million to establish the Victorian Startup Capital Fund, which will support early stage entrepreneurs to scale up. This fund will assist early-stage firms in attracting venture capital, leveraging up to \$180 million of private investment.⁷¹ The Victorian Government has also recently announced a \$10.3 million Innovation and Digital Jobs program, which will aid in the support and adoption of innovative technology in respect of SMEs.⁷²

Recommendation: State and Federal governments should follow the Queensland model in championing innovation by creating an office of the chief entrepreneur and establishing a fund similar to the Business Development Fund and the Backing Queensland Business Investment Fund to co-invest in businesses.

⁶⁹ Queensland Government, 'Business Development Fund', <https://www.treasury.qld.gov.au/programs-and-policies/business-development-fund/>

⁷⁰ Queensland Government, 'Palaszczuk Government backs Queensland jobs and industry with \$1 billion boost' (7 September 2020), <https://statements.qld.gov.au/statements/90683>.

⁷¹ Victorian Government, 'Keeping us Connected and Working, Wherever we are', <https://www.premier.vic.gov.au/keeping-us-connected-and-working-wherever-we-are>

⁷² Victorian Government, 'Keeping us Connected and Working, Wherever we are', <https://www.premier.vic.gov.au/keeping-us-connected-and-working-wherever-we-are>



Direct Financial Support to the FinTech Sector through the Australian Future Fund

In addition to investment incentives such as the previously mentioned EIS, the UK government provides direct financial support to fintechs through government backed loans and investment by the British Business Bank, and through grants from the government-funded innovation body, Innovate UK. The government also supports fintechs through substantial R&D tax credits, extensive collaboration with industry through the Fintech Delivery Panel and Tech Nation, and has implemented a Knowledge Transfer Partnerships program to fund salaries for PhD students specialising in AI, cybersecurity and other fintech-related fields to work at selected fintechs. Additionally, as a response to COVID 19, the UK government has created a Future Fund program to provide matched investment up to £5m for early-stage UK businesses.

Finally, both fintech and early-stage Australian tech businesses are areas that are currently overlooked by Australia's sovereign wealth fund, the Australian Future Fund ("AFF"). At present, of the AFF's 14 selected investment managers in the venture and growth sector, 9 are US-based, 4 are based in China, and none are located in Australia, or focus on Australian investments. By encouraging the AFF to select additional Australian managers in the early-stage fintech space, the government could meet the goal of fostering and growing innovative early-stage businesses, while at the same time ensuring strong returns from a growing sector of the economy.

Recommendation: Give the AFF a specific mandate to direct some minimum portion of funding to the Australian fintech sector, through Australian venture capital investment managers.

Examples of international funds



FinTech Australia

We have set out below examples of International funding regimes aimed at supporting the fintech and startup ecosystems of their respective jurisdictions. FinTech Australia and its members support these regimes and would recommend that the Government establish similar funds to support fintechs in Australia.

United Kingdom

Earlier this year, the UK Government announced that it would issue £20 million in grants to startups, capped at £50,000 each to businesses that are developing solutions for society or an industry that has been impacted by Covid-19. A project is eligible where the costs are between £25,000 and £50,000, can be started by 1 June 2020, and will last 6 months. A business is eligible to lead such a project where it is registered in the UK, the project is undertaken in the UK and benefits the UK. In addition to this, the Government is subsidising 80% of employee wages for employees that are not laid off. Cash flow support is also being granted small businesses through the Coronavirus Business Interruption Loan Scheme. Loans under the Scheme are 80% Government guaranteed, capped at £5 million for businesses with turnover below £45 million. Loans below £250,000 do not require personal guarantee and such guarantees will only cover the 20% unguaranteed amount above that limit. For the first 12 months, interest and fees are not payable. The Government has also recently proposed to implement legislation that allows for SMEs to reclaim Statutory Sick Pay.

The UK Government has promised £1 billion of support to startups in response to Covid-19. £750 million is being allocated by the Government for grants and loans to SMEs with an emphasis on R&D. £250 million will be committed to the previously mentioned £500 million Future Fund, which focuses on high-growth companies. The private sector will contribute the other £250 million to the Future Fund. To be eligible for funding from the Future Fund, the company must be an unlisted UK registered company, have raised at least £250,000 in aggregate from private third party investors in previous funding rounds over the last five years and have a substantive economic presence in the UK. Through the fund, the Government will provide unsecured bridge funding at 50% with private investors providing the remaining 50%.



FinTech Australia

Government investment will range from £125,000 to £5 million, however, private investments are uncapped. The loans will take the form of convertible loans, where if loans are not repaid they will be converted into equity in the company.

France

The French Government has committed €4 billion to the startup sector, as part of a larger €300b commitment. This commitment includes loans to guarantee wages of startup employees for up to two years, and fast tracked tax returns. A solidarity fund has also been developed by the Government for entrepreneurs, merchants, artisans. Financial support of €1,500 will be provided for the smallest businesses, the self-employed and microenterprises in the sectors most affected.

European Union

On 8 April 2020, the European Commission launched ESCALAR. Developed with the European Investment Fund, ESCALAR is a new investment approach that will support the growth and expansion of high potential companies. Up to €300 million will be provided initially to increase the investment capacity of venture capital and private investment funds, with the aim of increasing this amount to €1.2 billion. This initiative is part of a larger SME strategy to improve access to finance for SMEs.

Recommendation: Implement funding regimes similar to those found in other states and overseas to support the fintech and startup ecosystem.



4. Skills and Culture

4.1 Regulatory culture

The committee seeks further input about how [listed] initiatives can help spur the development of the RegTech sector in Australia.⁷³

Members have expressed that direct Government investment into fintechs would help the development and adoption of regtech. Direct investment into fintechs could either take the form of funding, or as having Government as a customer to those fintechs. The latter option would provide a well needed boost to fintechs, and would have the added bonus of improving internal Government processes and efficiencies. Banks should also be encouraged to partner with fintechs in business lending to achieve increased small business lending. The Government could include these measures in its accelerating commercialisation agenda. Coupled with consideration of the fintech ecosystem as a crucial growth segment of the economy, and a reduction in red tape for access to grants, these initiatives would be considerably beneficial to the fintech industry and the economy as a whole.

At the moment, the fintech sector could benefit from the Government assisting them in tapping into the markets in regional, rural and remote areas. Australians in these areas, and elsewhere, are currently adapting to social distancing measures that have forced many businesses to move online, causing substantial change in their operational structures. Introducing these individuals to fintechs would be able to make this transition smoother, thereby retaining the viability of more businesses, rescuing more jobs, and securing the future of the economy through the Covid-19 crisis. This can also be taken as an opportunity to improve the technological and financial literacy of at risk individuals in these areas, particularly those in remote areas, some of whom

⁷³ Issues Paper 2, 6.



FinTech Australia

have limited internet access. This has the added bonus of widening the fintech sector's market share and raises awareness of the ecosystem's offerings. Any such showcasing of fintechs from Australia, whether it be to regional, rural and remote areas or otherwise, should be Government supported and be done so via virtual means, so that expansion of the market and fintech's customer base does not slow.

Some members have also expressed that the Government could be doing more in pro-actively supporting emerging areas such as the digital finance space. Jurisdictions such as the US, which has traditionally been cautious in respect of cryptocurrency has seen considerable regulatory uptake in the space this year.⁷⁴ The European Union has released in September a 168 page draft regulation for cryptocurrency markets.⁷⁵ Members have noted that jurisdictions like Hong Kong and Singapore already have robust digital finance infrastructures and are concerned that the Australian Government's lack of expediency could lead us to be left behind as other countries embrace digital finance.

In respect of the Government's regulatory approach, members have also expressed that due to Australia's fragmented approach to regulation there does not appear to be a regulator that is widely responsible for the fintech industry, like MAS in Singapore or the FCA in the UK. The fintech and startup ecosystems would greatly benefit from a regulator that has a broader mandate to support and regulate the fintech industry, rather than the piecemeal approach taken in, for example, the data sector.

As the Committee has identified, there is an opportunity for Australia's regulators to more deeply ingrain competition considerations into their regulatory activities. Australia's regulators rightfully

⁷⁴ Kevin Helmes, "49 US States Unveil Unified Regulation for Cryptocurrency Firms", Bitcoin.com, 16 September 2020, <https://news.bitcoin.com/us-states-unified-regulation-cryptocurrency/>.

⁷⁵ European Commission, 'REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Markets in Crypto-assets (MiCA)', <https://www.politico.eu/wp-content/uploads/2020/09/CLEAN-COM-Draft-Regulation-Markets-in-Crypto-Assets.pdf>



FinTech Australia

have a high status and profile, and their public commentary carries significant weight. One area where regulators can improve their consideration of competition issues is in the evaluation of consumer outcomes that are linked to particular industry sectors. For example, in its recent report on the buy now pay later (“**BNPL**”) sector, ASIC used consumer research to make findings about the impact of BNPL products on consumer outcomes, including levels of financial stress.

Despite ASIC’s report having many positive findings about the BNPL sector, media reporting about ASIC’s work almost exclusively focussed on one particular negative consumer research finding in relation to financial stress. This is despite the fact that ASIC disclosed clear limitations associated with the subjectivity of the self-reported consumer research responses. Negative commentary such as this acts to unfairly undermine the competition and innovation that fintechs generate for Australian consumers and the economy more broadly.

In taking a more active role in considering competition issues, ASIC could have explored a wider range of factors which affect the financial wellbeing of consumers, and to conduct robust qualitative and quantitative research. As is well documented, the drivers of financial stress are complex and multi-faceted, and cannot be identified simply by asking consumers a series of questions in a survey which has significant methodological limitations.

The relative role that different financial products play could have been carefully considered - particularly as consumers hold multiple financial products (including higher risk credit cards and payday loans) at the same time.

Recommendation: The Government should invest directly in fintechs by becoming a customer.

Recommendation: Provide assistance to fintechs in tapping into the markets in regional, rural and remote areas.



Recommendation: The Government should be more pro-active in emerging sectors such as digital finance to allow for Australia to be a world leader.

Recommendation: Develop a regulatory landscape that supports fintech in a fashion similar to the FCA in the UK, or MAS in Singapore, rather than the current fragmented approach.

Recommendation: When ASIC and other regulators consider financial sectors, a wide range of factors, including the effect of financial wellness broadly, and competition, should be considered.

4.2 Talent acquisition and retention

The committee seeks feedback on how to continue to enhance Australia's ability to attract and retain highly skilled workers in FinTech and related fields. The committee is particularly interested in how Australia could enact a tax regime which makes our country attractive to the world's brightest minds.⁷⁶

R&D Tax Incentive collaboration premium

We would consider that the introduction of a collaboration premium would encourage industry to collaborate with publicly funded research bodies such as the CSIRO, or universities. A recent review by the Department of Industry, Science, Energy and Resources⁷⁷ (“**R&D Review**”) found that Australia has a low employment rate for STEM PhD graduates in the industry relative to other OECD countries. This creates a lost opportunity for knowledge spillover between these

⁷⁶ Issues Paper 2, 7.

⁷⁷ Bill Ferris, Alan Finkel and John Fraser, ‘Review of the R&D Tax Incentive’ *Department of Industry, Science, Energy and Resources* (4 April 2016) 3
https://www.industry.gov.au/sites/default/files/May%202018/document/pdf/research-and-development-tax-incentive-review-report.pdf?acsf_files_redirect.



FinTech Australia

participants, which is often contained to only those organisations, and the broader marketplace.⁷⁸ Relevantly, the R&D Review notes that our collaboration rate between industry, universities and research organisations is the lowest in the OECD at 9.5%.⁷⁹ In response to this, the R&D Review and the subsequent ISA Prosperity 2030 report recommended that a collaboration premium should be implemented of up to 20% of non-refundable tax offset to provide support for collaboration with publicly funded organisations, as well as for the cost of employing new STEM PhD or equivalent graduates within their first three years of employment. The R&D Review also recommended that if an R&D intensity threshold is introduced, as per their Recommendation 4, then companies that fall below the threshold should still be able to access the collaboration premium.⁸⁰

Recommendation: Introduce a collaboration premium which covers expenditure related to collaboration with publicly funded organisations as well as the employment of new STEM PhD or equivalent graduates.

Supporting workforce training and manpower costs

Turning to Singapore's recent reforms in response to Covid-19's economic effects, MAS has launched a new grant, called the Training Allowance Grant that will encourage financial institutions and fintechs to train and upskill their employees during this current period of downturn. This grant scheme is also available to Singapore and Permanent Residents outside of financial institutions and fintechs. Subsidies for course fees for those attending Singapore Banking and Finance ("IBF") courses will increase and will now be made available to employees of fintech firms. Salary support for financial institutions will also be doubled to allow for these businesses to hire more employees from other sectors and place them in talent development

⁷⁸ R&D Review, 34.

⁷⁹ R&D Review, 13.

⁸⁰ R&D Review, 3.



FinTech Australia

programmes. A similar scheme in Australia could allow for fintechs to upskill their existing talent pools.

Recommendation: Introduce a scheme similar to that of Singapore’s Training Allowance Grant to aid in workforce training.

Visa fast tracking

Members noted that to promote a consistent influx of high skilled labour, visas should be fast tracked where those workers possess skills and qualifications related to tech, as immigration levels will be down significantly due to Covid-19. Additionally, members have noted that the road to sponsorship should be made easier, ideally with a direct route to permanent residency. Another member has noted that a lack of IT graduates in the Australia job market has forced them to turn to overseas hires. They have noted difficulties with international recruits who upon coming to the end of their 485 visa and have applied for Permanent Residency, experience delays in the Permanent Residency system that forces this member to sponsor the applicant.

Recommendation: Implement visa and sponsorship fast tracking.

Access to Talent

In addition to the above, it is important to note that 72% of fintechs in the 2020 Fintech Census considered that easier access to skilled migration would be an effective mechanism for growth. This figure grew from 66% in 2019.⁸¹

⁸¹ 2020 FinTech Census, 19.



5. Trade and international Policy

The committee will consider how this [\$9.6 million] investment can be implemented to leverage long term benefits for Australia. The committee will also consider Australia's broader digital trade policy.⁸²

Our members consider that the best way to leverage the Government's \$9.6 million investment would be to facilitate partnerships between industry and government agencies. Funding the organisations that working at the coalface to support founders is key. This ensures that organisations are being seeded that will be able to continue to support the industry for years to come.

Recommendation: The Government leverage their \$9.6 million investment by facilitating partnerships between industry and government agencies.

The committee also seeks feedback on the progress of the FinTech Bridge between Australia and the United Kingdom. The committee seeks feedback on which countries Australia should prioritise in seeking to establish further FinTech bridges.⁸³

Following the successful establishment of the FinTech Bridge with the UK, Australia should look to establish similar programs with other jurisdictions with robust, equivalent regulatory regimes, who champion innovation and with whom we have strong relationships. In particular, we should look to establish such a relationship with MAS. Our geographical proximity, equivalent regimes and history of collaboration between regulators (for instance through passporting of foreign financial service providers) make it an ideal candidate for collaboration. It is also vital that the

⁸² Issues Paper 2, 7.

⁸³ Issues Paper 2, 8.



FinTech Australia

Government forge relationships with jurisdictions into which fintechs are expanding, such as New Zealand, the United States and Canada. These jurisdictions were among the top 5 marked for potential future expansion in the 2020 FinTech Census.⁸⁴

Some members have expressed disappointment with the increased attention and assistance that UK fintechs that are entering Australia receive when compared to Australian fintechs. To resolve this disparity, we recommend that more resources be dedicated to the relevant teams at Austrade to support local fintechs inline with the assistance that the Department of International Trade grant UK fintechs.

Recommendation: The Australian Government enter into a FinTech Bridge style relationship with other APEC countries, with equivalent regulatory regimes, such as with the Monetary Authority of Singapore. The Government should also concentrate on countries that fintechs are expanding into, such as the United States, New Zealand and Canada.

Recommendation: Dedicate more resources to the relevant teams at Austrade to support local fintechs inline with the assistance that the Department of International Trade grant UK fintechs.

6. Framework for ongoing consideration of Fintech policy issues

⁸⁴ 2020 FinTech Census, 7.



FinTech Australia

The committee notes the previous activities of the FinTech Advisory Group, and seeks input on whether this structure, or a different type of structure, should be established for a more meaningful long term role.⁸⁵

FinTech Australia is supportive of the FinTech Advisory Group. The FinTech Advisory Group provides an important link to the Government to have many informal/formal discussions about the regulatory and cultural framework required to ensure that fintechs have the right policy and regulatory settings to scale and grow.

Conclusion

We would like to thank the Committee for providing us with the opportunity to respond to the second Issues Paper. We look forward to the final report.

⁸⁵ Issues Paper 2, 8.





FinTech Australia

About FinTech Australia

FinTech Australia is the peak industry body for the Australian fintech Industry, representing over 300 fintech Startups, Hubs, Accelerators and Venture Capital Funds across the nation.

Our vision is to make Australia one of the world's leading markets for fintech innovation and investment. This submission has been compiled by FinTech Australia and its members in an effort to drive cultural, policy and regulatory change toward realising this vision.

FinTech Australia would like to recognise the support of our Policy Partners, who provide guidance and advice to the association and its members in the development of our submissions:

- DLA Piper
- King & Wood Mallesons
- K&L Gates
- The Fold Legal
- Cornwalls