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

Dear Select Committee on Financial Technology and Regulatory Technology ("**Select Committee**"),

Re: Call for further submissions to the inquiry – COVID-19 pandemic

Pepperstone Group Limited ("**Pepperstone**", "**we**", "**us**" and "**our**") welcomes the opportunity to provide further information to the Select Committee to assist it with its considerations.

The Select Committee has asked us for additional information to support FinTech and RegTech firms to negotiate the COVID-19 pandemic in the short, medium and long term, including post-recovery, focusing on solutions that can be delivered swiftly by government and the private sector.

Key impacts of COVID-19 on FinTech and RegTech firms in Australia

In order to understand the solutions, it may be useful to first consider the impacts. COVID-19 and the extreme stock market movements that have arisen as a consequence have had an immediate impact on all financial services firms in Australia, including FinTech firms. It is generally accepted that firms will continue to feel the effects of the rapidly unfolding economic crisis for an extended period of time, even after the pandemic has been contained.

- Firms have had to devote time and resources to implementing and enacting business continuity plans which includes staff needing to work remotely.
- There is a direct impact on capital for those firms that are listed or those that have exposure to shares as part of their business operations.
- The virus itself and mandated quarantine procedures has the potential to seriously affect firms' human resource capacity.
- Limitations associated with staff working remotely without their usual access to business equipment and infrastructure, meaning they may be unable to work as effectively or may not even be able to undertake certain tasks.
- Firms are having to commit additional client-facing resourcing to support current clients and staff through an uncertain time.

- Inability to directly access overseas (and interstate) staff who for safety or practical reasons are unable to safely fly in and out of Australia and between states.
- The COV-19 environment means that staff are under pressure and are impacted by matters outside of the work environment, which changes productivity levels.
- Firms may experience a lack of easy access to external advisory services such as legal, audit and compliance advisory firms due to COVID-19 limitations.

These impacts are exacerbated by the uncertainty of the COVID-19 crisis. As the Select Committee will appreciate there are no clear indications as to how markets and investors will react, how Government restrictions may impact suppliers, and when businesses will be able to operate in their usual capacity again. There is also clearly the potential for other market events to occur that may make things worse (for example, the collapse of a key supplier or even a large, systemically important institution).

Proposed solutions

We were encouraged to see ASIC's recent media statement, *20-070MR ASIC recalibrates its regulatory priorities to focus on COVID-19 challenges* and other similar statements from financial regulators which recognise the challenges facing Australian financial services firms at this time.

We note that our own industry had already been under a high degree of commercial pressure prior to the COVID-19 issues. In addition to managing the cost and burden of adjusting to impending regulatory reforms such as ASIC's proposed product intervention powers, firms are also suffering from financial pressures caused by the extremely challenging insurance market for Australian financial services providers. Many underwriters both locally and internationally have either re-priced the risk they are prepared to accept from the Australian financial services sector or have moved away from it altogether following last year's Royal Commission. As a result, multiple firms have experienced increases in their PI Insurance premiums of more than 200% and/or been unable to fill their recommended insurable quota.

Certainty about regulation

In uncertain market times, the best thing to do is provide certainty where possible. We believe the extraordinary circumstances of the current COVID-19 environment should factor into any decisions being made by Australian regulators that impact FinTech and RegTech firms at this time.

It is within the Government's power to decide to suspend all new financial services regulatory consultations and changes until next year. For example, the *Financial Services Royal Commission – Enhancing consumer protections and strengthening regulators reforms*.

In our view, suspending all regulatory consultation and changes until 2021 will greatly assist Australian FinTech and RegTech firms, providing them with certainty regarding the regulatory impacts they will face in an otherwise highly uncertain environment.

It will also materially reduce the financial pressure that FinTech and RegTech firms are facing in this extremely difficult time. Many reports have highlighted that regulatory uncertainty and regulatory change are the primary costs for financial services businesses in Australia at the moment.¹ Though many of the current proposed reforms are aimed at the misconduct of banks, the impact is far more burdensome on small-mid tier firms who will need to implement brand new systems and processes, and hire additional resources and/or external advisors to

¹ See Cost of Compliance 2019: 10 years of regulatory change, Thomson Reuters.

help them adjust to the changes. These smaller firms are also less likely to be able to absorb the cost of the changes.

We also note that the introduction of regulatory reforms that apply only to Australian firms at this time may exacerbate existing competitive disadvantages that firms are already facing from international businesses that are not captured by the reforms.

A suspension on regulatory reforms until after the crisis has passed will allow businesses the space and resources to focus only on the matter at hand without needing to resource and capitalise changes to systems, processes and people to facilitate new regulations.

Such action would be welcomed by the OTC derivatives industry (of which Pepperstone is a member) which is heavily impacted by ASIC's Product Design and Distribution Obligations. Even though these obligations are not due to begin until April 2021, many firms had already been struggling to implement the wholesale changes required of them to be compliant under the new rules prior to COVID-19. Suspending the commencement of the new obligations for 6 to 12 months would greatly reduce the pressure firms in our industry are facing in the current environment, without detracting from the importance of the reforms themselves.

The work of the Office of Best Practice Regulation

The Office of Best Practice Regulation ("**OBPR**") was established to ensure the Australian Government's and Council of Australian Governments' ("**COAG**") regulatory policy and governance requirements are adhered to. These COAG requirements are designed to support the development of quality regulation. They help ensure that decision-making is transparent and informed by evidence, and that policymakers consult with stakeholders and include consideration of the regulatory burden imposed.

OBPR is best placed to consider the additional regulatory impact that COVID-19 currently has and will have on financial service businesses operating in Australia in any assessment of a regulatory impact statement ("**RIS**") for new policy.

In our view, it is important that OBPR is provided with additional market commentary, guidelines and an understanding of the unique situations faced by businesses operating in this environment for consideration in connection with any proposed regulatory reform.

Regulators should also be required to include a section on COVID-19 and its potential impacts in each RIS regarding regulatory change for the foreseeable future. Such impacts may include many of the "Key Impacts" we have set out earlier in this letter.

It is likely that timeframes for any approved regulatory reform will need to be greatly expanded and we believe that there needs to be some recognition that material changes may not be able to be made until business restrictions are eased.

We also submit that changes to traditional and well understood regulation or business practises should also be avoided in the short term unless absolutely necessary. The current capacity of firms and consumers to fully absorb the impact of any changes is significantly reduced given the multitude of other challenges that they are facing in the COVID-19 environment. In light of this, OBPR may also consider it necessary to revisit recent decisions to determine whether their assessments should change.

General regulatory engagement

Lastly, we consider it important for regulators themselves to consider to whether the obligations and expectations they would ordinarily impose on firms continue to be appropriate and feasible for firms to adhere to in the current environment. We believe that continuing to proceed with regulatory reforms in a period of uncertainty could create investor and employee alarm, causing significant reputational damage to firms.

This may result in some firms having to reduce or cease their operations – impacting Australian workers and the economy during an already extremely challenging situation. For example, we believe that ASIC's proposed introduction of product intervention restrictions would likely have material impact on the OTC derivatives industry, creating flow on effects for workers and the Australian economy, were it to be introduced in the current environment.

On a related note, while firms must of course continue to comply with their legislatively required reporting obligations, we would encourage regulators to consider the timeframes and nature of any additional reporting and information obligations that they impose on firms at this time.

In our view, additional regulatory engagement and requests for information would ideally be limited only to information that is critical to ensure consumer protection in an orderly market. We believe an adjustment of regulators' expectations in this regard, in recognition that many firms' workforces and systems are already stretched to capacity, would go a long way to facilitating an ongoing, open dialogue with industries that can be sustained for mutual benefit beyond the COVID-19 crisis.

Government organised online collaboration events or forums

There is one aspect to the current environment that could be of benefit to FinTech and RegTech firms.

FinTech and RegTech firms are uniquely positioned to help other businesses deal with the challenges they are facing in the current environment, in particular:

- Traditional businesses now having to deal with new operational restrictions and opportunities, such as remote working and shifting to online sales.
- A clear increase in cyber related fraud and issues as bad actors see businesses as potentially vulnerable or distracted while they are dealing with their work remotely.
- Some businesses not having the correct skillset to be able to adequately protect themselves and their customers in an online environment or deal with those customers in an efficient way.

Some businesses may be considering a FinTech/RegTech solution for the first time to help with these challenges and might not know where to start. In our view it would be useful to encourage a broader dialogue between the Australian FinTech/RegTech community and other more traditional businesses so they can learn from each other and work together to provide solutions during these challenging times.

Government online events or Government funded events, perhaps simply a coordinated online space set up for this type of conversation may be useful to encourage such collaboration. This would be a way to provide additional opportunities for FinTech and RegTech firms operating in Australia.

Please let us know if there is any additional information you require.

Yours Sincerely,

Tamas Szabo
Group CEO
Pepperstone