FinTech Australia

SUBMISSION PAPER:

Submission to the Select Committee on Australia as a Technology and Financial Centre

July 2021

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.

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About this Submission

This document was created by FinTech Australia in consultation with its members, which consists of over 300 company representatives. This submission was led by:

- Rebecca Schot-Guppy, CEO of FinTech Australia

Submission Process

In developing this submission, our members have engaged through email correspondence and meetings to ensure everyone had the opportunity to provide input.

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Recommendations

No.	Recommendation
1.	***Recommendation: ASIC should expand upon existing crypto-asset guidance, or develop new guidance, which reflects not just information regarding general principles but their practical application.***
2.	***Recommendation: The government and regulators should regularly engage with crypto-asset businesses to facilitate better education of industry.***
3.	***Recommendation: That ASIC develop, in consultation with the crypto-asset industry, a voluntary self-regulatory code of practice for crypto-asset markets.***
4.	***Recommendation: That in developing any new regulations, these regulations are developed in a technology neutral manner.***
5.	***Recommendation: That ASIC provide guidance in respect of the nature of the crypto-asset industry to better inform the insurance industry.***
6.	***Recommendation: That APRA provide guidance in respect of acquiring off-shore insurance approval.***
7.	***Recommendation: The ATO should provide more detailed guidance surrounding taxation of cryptocurrency (including DeFi protocols) so as to provide greater certainty to the sector.***
8.	***Recommendation: The ATO should provide more detailed guidance surrounding taxation of cryptocurrency (including DeFi protocols) so as to provide greater certainty to the sector.***

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9.	***Recommendation: Provide explicit guidance to clarify when and how the R&D Tax Incentive applies to software development in relation to fintech businesses.***
10.	***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.***
11.	***Recommendation: "R&D activities" in the R&D Tax Incentive scheme should be interpreted by regulators, particularly IISA, 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.***
12.	***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.***
13.	***Recommendation: Review the R&D Tax Incentive scheme against international benchmarks to consider how the application, and regulator examination and audit processes may be simplified, made more transparent and contracted.***
14.	***Recommendation: Increase the R&D Tax Incentive to 65% from 43%, and facilitate early access to R&D tax concessions.***
15.	***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.***
16.	***Recommendation: Encourage individuals to allocate superannuation to early-stage investment via greater tax incentives.***

17.	***Recommendation: Reform ESVCLPs by removing sector limits, providing greater tax incentives, including a larger non-refundable carry-forward tax offset, and reform the IISA's early-stage criteria requirements***
18.	***Recommendation: The Australian government should support the access to capital for early stage Fintechs via a mandate for the national sovereign wealth fund The Future Fund to allocate a % of funds to ESVCLPs to invest in the early stage fintech ecosystem.***
19.	***Recommendation: The Australian government should take proactive steps to enhance the Australian venture capital ecosystem through fund allocation and partnering with the major banks.***
20.	***Recommendation: AUSTRAC should introduce clearer guidelines for banks and*** **fintechs** ***in relation to the obligations with an aim of reducing the occurrence of debanking.***
21.	***Recommendation: Develop and implement an industry-wide debanking process to provide certainty across the market. This should include setting out clear guidance regarding when a person might be debanked as well as the process which will be followed.***
22.	***Recommendation: Implement an appeals process where debanked customers can speak with a clearly identified regulator or ombudsman to determine whether the debanking was reasonable in the circumstances. This will hold banks accountable for debanking activities.***
23.	***Recommendation: The ACCC investigate whether debanking is undertaken for anti-competitive reasons.***
24.	***Recommendation: Promote access to capital for neobanks by removing restrictions surrounding venture capital investment in ADIs.***

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25.	***Recommendation: Provide further clarity regarding the process to become an ADI.***
26.	***Recommendation: Broaden visa schemes and requirements to allow for the attraction and retention of international talent and allow non-Australians with Visas to be able to enter Australia.***
27.	***Recommendation: Implement a domestic knowledge transfer program to promote knowledge transfer and skill-up PhD students.***
28.	***Recommendation: Reform visa program to ensure high-quality global candidates are accepted into Australia.***
29.	***Recommendation: Improve monitoring of SIV program to ensure compliance***
30.	***Recommendation: Re-evaluate pandemic related immigration policies to allow for the entry of international talent and students.***
31.	***Recommendation: Lower individual and corporate tax rates in line with other competing jurisdictions, such as Singapore, the US, or New Zealand so as to remain internationally competitive.***
32.	***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.***
33.	***Recommendation: Give the AFF a specific mandate to direct some minimum portion of funding to the Australian fintech sector/early-stage Australian businesses, through Australian venture capital investment managers.***
34.	***Recommendation: Implement funding regimes similar to those found in other states and overseas to support the fintech and startup ecosystem.***

35.	***Recommendation: Support and maintain existing Federal and State government grant schemes such as ESIC and the R&D tax incentive scheme.***
36.	***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.***
37.	***Recommendation: Dedicate more resources to the relevant teams at Austrade to support local fintechs align with the assistance that the Department of International Trade grant UK fintechs.***

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Cryptocurrency and digital assets

Our members have provided extensive feedback in respect of how Australia's policy and regulatory environment can be improved to better nurture and facilitate innovation in the blockchain and crypto-asset space while maintaining a safe, internationally competitive and efficient market.

Regulatory framework

FinTech Australia and its members welcome the opportunity to liaise with the government regarding the regulatory framework for digital assets, cryptocurrencies, blockchain and decentralised finance ("**DeFi**") products. Our submissions in respect of this section cover a wide range of areas, including regulatory clarity, the benefits of regulatory frameworks for crypto-asset businesses and methods of regulation, the current day-to-day issues faced by crypto-asset businesses and tax.

Improved regulatory clarity

There continues to be a large amount of uncertainty in the market as to how the current regulatory framework interacts and intersects with crypto-assets, DeFi products and blockchain generally. Many members have stated that the current regulatory framework is opaque and requires substantial resources to meet and understand baseline obligations. This complexity is likely to serve as a barrier to entry into the market for many smaller participants.

FinTech Australia acknowledges ASIC's efforts over the past few years to provide guidance through INFO 225.[1] INFO 225 provides some guidance to assist with identifying when a crypto-asset or protocol may be considered a financial product as well as dealing with certain issues under financial services legislation. INFO 225 is an example of regulatory guidance that is both informative and easy to digest. However, further information is required. Members have repeatedly expressed frustration that while crypto-asset markets and products have matured and evolved, regulators and industry continue to consider that blockchain and crypto-asset projects inherently risky or illegitimate. INFO 225 was published initially in 2017 and although it has been updated, it has not kept pace with the change in the industry.

From member discussions it is apparent that regulators are somewhat risk averse. The risk averse approach is impacting members in this industry, with one member noting that they received conflicting advice from different regulators as to what they could and could not do in

[1] https://asic.gov.au/regulatory-resources/digital-transformation/initial-coin-offerings-and-crypto-assets/.

the Australian market. As a result, Australian projects are moving offshore to friendlier regulatory environments as most projects are looking to global capital pools. Solving for unduly restrictive Australian requirements becomes infeasible due to the small size of the Australian investor pool. Additionally, Australian investors are looking for and finding ways to access offshore opportunities, and therefore, receive no protection from Australian regulation. In short, our regulatory regime was built for a time when Australians were mainly investing in Australian securities. However, investing is increasingly a global exercise and promoters and investors are simply finding ways to operate outside of Australian regulators purview. Accordingly, enabling mutual recognition of ventures that are compliant in key overseas markets and/or harmonising our investor protection regulations with leading nations, is more important than ever. The ASX has also been flagged as being particularly risk averse when it comes to any listed business undertaking significant activities related to crypto, with one member noting that doing so puts a business at risk of being delisted. Members also have significant issues with the Big Four banks, who have been denying banking services ("**debanking**") to crypto-asset companies due to regulatory compliance and risk concerns. Debanking is discussed in further detail below.

FinTech Australia considers that there are several solutions to these problems. Firstly, regulators should provide additional guidance beyond ASIC's INFO 225 that clarifies the applicability of the current regime to more complex crypto-asset products. A member has suggested that such guidance could, for example, provide guidance around how to assess a project's whitepaper for any financial regulatory red flags, or provide examples of the sorts of features which may indicate a project may stray into the definition of a financial product. This might also be expanded to include information relevant to the DeFi space.

Secondly, there should be a focus on educating industry stakeholders to improve market confidence in the sector and ensure that fintechs are not unfairly punished for merely operating within a particular sector. In respect of further education, FinTech Australia encourages regulators to continue to have an open dialogue with industry, so as to gain a better understanding of the progress that the crypto-asset industry is making.

FinTech Australia welcomes ASIC's recently published consultation paper 343 seeking submissions on the treatment of exchange traded products which have crypto-assets as underlying assets. There is a considerable demand for a retail offering of these products. Such guidance from ASIC must expand upon existing guidance and reflect not just information regarding general principles but their practical application. FinTech Australia and its members look forward to commenting on the proposal.[2]

[2] 21-153MR ASIC consults on crypto-asset based ETPs and other investment products, https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-153mr-asic-consults-on-crypto-asset-based-etps-and-other-investment-products/.

Open communication with regulators

From our members' perspective, direct regulator communication is incredibly beneficial, and should continue to be a priority. FinTech Australia is incredibly appreciative of the work that ASIC has done engaging with the industry through its Innovation Hub. FinTech Australia encourages ASIC to provide more granular guidance through the Innovation Hub which would assist businesses to understand the regulatory perimeter.

> ***Recommendation: ASIC should expand upon existing crypto-asset guidance, or develop new guidance, which reflects not just information regarding general principles but their practical application.***

> ***Recommendation: The government and regulators should regularly engage with crypto-asset businesses to facilitate better education of industry.***

Crypto-asset markets licences

The crypto-asset market side of the industry in particular, has called for increased regulation of the industry to bolster legitimacy of crypto-asset businesses. They have suggested adopting a licensing regime for crypto-asset exchanges. Like entities which hold markets licences, were a crypto-asset exchange to be licenced, this oversight would promote legitimacy and market confidence in the licensed entities.

However, FinTech Australia cautions that imposing the existing markets licence regime on crypto-asset exchanges would impose a heavy regulatory burden. We note that jurisdictions that have rushed to implement such regimes have resulted in poor outcomes for the industry. The first iteration of such a regime, New York's BitLicence (which saw some relaxation in 2020) has reportedly seen little adoption and is considered to be overly burdensome by industry.[3] Instead, it saw many businesses leave New York. So too have regimes in Singapore and Hong Kong suffered from a lack of consultation with the industry prior to implementation. This has meant that instead of assisting the industry, these regimes have caused great difficulty for businesses, and some have left the jurisdiction or ceased operating. Further, concerns have been raised that these regimes may inadvertently capture businesses that are not exchanges and which should not be subject to these requirements as they use blockchain as part of the technological stack. If

[3] https://www.jdsupra.com/legalnews/new-york-s-relaxed-bitlicense-could-23441/ [insert]

these businesses were captured it would have a negative effect on both the crypto-asset and blockchain industry.

An alternative to the creation of a new licensing regime would be a voluntary self-regulatory code of practice, which has been an approach adopted by ASIC and the buy-now-pay-later sector with success. A similar code of conduct could be developed by regulators in consultation with crypto-asset businesses and adopted on a voluntary basis. The code of practice could include rights for consumers, such as an ability to lodge a complaint with AFCA and impose obligations on crypto-asset exchanges, similar to those under a markets licence. Such a scheme would go far in legitimising crypto-asset businesses and provide comfort to the market, regulators and banks.]

Regardless of the model chosen, any regulatory or policy shift must take the entire industry into account, consider current technology, and future developments, as well as the effect on competition and market accessibility. For this reason, any new regulation should be drafted, as far as possible, in a manner that is technology neutral and principles based. Legislating based on technology may have unintended consequences for businesses or sectors that use that technology, and may similarly entrench certain technologies, preventing the adoption of new technologies which are developed.

Recommendation: That ASIC develop, in consultation with the crypto-asset industry, a voluntary self-regulatory code of practice for crypto-asset markets.

Recommendation: That in developing any new regulations, these regulations are developed in a technology neutral manner.

Day to day operations and business requirements

In addition, our crypto-asset members have encountered difficulties meeting general business requirements such as obtaining professional indemnity insurance and maintaining or procuring banking services. In relation to insurance, this difficulty seems to arise as a result of a disconnect between the insurance industry's understanding of the crypto-asset industry and the actual nature of a business in this industry. One of our affected members has noted that the only two providers of professional indemnity insurance to crypto-asset companies both reside overseas which may not meet requirements of some suppliers.

There needs to be a better appreciation of the risks involved in a crypto-asset business, as well as an understanding as to how these businesses can make insurance providers comfortable. This could be bridged through better government and industry engagement and education. In particular, guidance from ASIC regarding the nature of these businesses, as noted above, as well as from APRA in respect of acquiring offshore insurance approval would assist.

Crypto-asset businesses are contending with being debanked. Like insurance, without a bank account, a crypto-asset business is unable to operate. Further details in relation to debanking are set out below.

Recommendation: That ASIC provide guidance in respect of the nature of the crypto-asset industry to better inform the insurance industry.

Recommendation: That APRA provide guidance in respect of acquiring off-shore insurance approval.

Tax and DeFi

A considerable issue faced by the digital and crypto-asset industry is tax. Several members have argued that current capital gains tax ("**CGT**") arrangements are incompatible with the products and services offered in this industry, particularly DeFi. Central to this is a lack of guidance from the ATO about the application of existing principles to new and emerging technologies.

One of the most considerable barriers to entry for the mainstream adoption of DeFi products is the numerous taxable events that arise when a crypto-asset token interacts with a protocol. Under the current regime, whenever a token interacts with a protocol where it is swapped, accessed, burned, staked or exchanged a CGT event may be triggered. Many of these interactions are merely features of the technology and not taxable events, as they don't give rise to any gain or right to the asset itself. It would be particularly onerous to have to consider the tax impact on each protocol interaction, especially in that context. Generally speaking, it would be akin to having to consider the income tax regime each time your computer sends a TCP/IP packet to a website on the internet. If this level of friction existed for early users of the internet, the innovation, products and industry we have today would likely never have been created.

The consequence of this is that any user who is trying to interact with these protocols in order to gain the benefit of its utility may not only trigger a taxing event but also reset the acquisition date for the CGT asset, which would impact the taxpayer's eligibility for the 50% CGT discount for assets held for at least 12 months. These tax frictions can result in users being less willing to use these innovative platforms.

Given the pace of cryptocurrency innovation, it is not surprising that Australia's tax regime does not specifically address the tax implications of transactions involving cryptocurrency and DeFi. For the same reason, it is not surprising that the ATO has issued very limited guidance on the topic. This contributes to significant uncertainty in the industry, especially as the current guidance from the ATO on the taxation of cryptocurrency does not distinguish between types of transactions in determining tax outcomes. The lack of legislative or regulatory guidance in turn increases uncertainty with respect to cryptocurrency and DeFi, and disincentivises entrepreneurs from launching platforms in Australia (in favour of other jurisdictions with more attractive tax regimes, such as Singapore).

FinTech Australia considers that there are two broad recommendations here. First, the government should consult with industry to improve the tax regime's application to crypto-assets and DeFi and provide greater tax certainty to the industry. Doing so would boost market confidence in both the markets and products as well as improve compliance. Second, the ATO should issue more up-to-date and detailed guidance in respect of crypto-assets beyond general guidance around crypto-crypto-and crypto-fiat disposals. For example, the ATO recently published a fact sheet[4] which mentions a requirement to keep records for "cryptocurrency received via staking" but provides no practical examples as to how such crypto-assets are treated under our tax regime. Similarly, there is no meaningful guidance on the treatment of the numerous DeFi protocols that allow users to stake, lend, borrow and generate interest in novel ways. In respect of NFTs, the ATO has only published a single private ruling[5] which is binding only for the intended recipient and provides that the taxpayer's specific NFT artworks are CGT assets. As the Committee would know, an NFT can be more than artwork, and more fulsome and clear guidance is required as to how NFTs are treated by our tax regime.

> ***Recommendation: The ATO should provide more detailed guidance surrounding taxation of cryptocurrency (including DeFi protocols) so as to provide greater certainty to the sector.***

[4] https://iorder.com.au/publication/publicationdetails.aspx?pid=75362-04.2021
[5] Australian Taxation Office, Private Ruling 1051694175099, 1 October 2020, available here: https://www.ato.gov.au/law/view/document?src=hs&pit=99991231235958&arc=false&start=1&pageSize=10&total=1&num=0&docid=EV%2F1051694175099&dc=false&stype=find&tm=phrase-basic-non-fungible%20token

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R&D tax incentives

FinTech Australia and its members greatly appreciate and acknowledge the government taking on and implementing feedback in respect of the research and development tax incentive ("**R&D Tax Incentive**") from past submissions.

Novel software

To further enhance the scheme and provide greater clarity to businesses developing technology it has been suggested by members that there should be clearer rules in relation to what constitutes "novel" software. Particularly unique or novel instances of computer software developments, such as blockchain products should fall within the scheme's remit. We have world class talent in Australia, and such a change would remove ambiguity during the claims process and provide additional incentives for companies to pursue development of these products.

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 IISA 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 IISA 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 IISA 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 IISA, 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.

Board of Taxation Review

On 11 May 2021, the Government announced that the Board of Taxation would undertake a review to evaluate the dual-agency administrative model for the R&D Tax Incentive. The R&D Tax Incentive is jointly administered by the Australian Taxation Office ("**ATO**") and Industry Innovation and Science Australia (**"IISA**") and the Department of Industry, Science, Energy and Resources ("**DISER**"), with the ATO being responsible for the administration and processing of

R&D tax offset claims, and IISA responsible for registering companies' R&D activities. The Board of Taxation will be evaluating the R&D Tax Incentive dual agency administrative model, to identify opportunities to reduce duplication between the two administrators, simplify processes and functions and reduce the compliance cost for applicants.

As the R&D Tax Incentive is a critical government initiative for fintech businesses and the sector at-large, FinTech Australia looks forward to engaging during the virtual or in-person roundtable consultation sessions in late July and August.[6] FinTech Australia looks forward to advocating in favour of a less burdensome R&D tax incentive application process. Our position is expanded upon below.

R&D Tax Incentive application process

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 as 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 conflict. Unless a business is innovative/disruptive in a traditional sense, administrators' narrow interpretation of R&D activity eligibility means an 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 IISA and the 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

[6] The Board of Taxation, https://taxboard.gov.au/review/dual_agency_administration_model_reviewThe Board of Taxation, https://taxboard.gov.au/review/dual_agency_administration_model_review

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.

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 a 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-intensive consuming, 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.[7]

Finally, one member noted that fintechs operating in the UK are subject to less burdensome requirements to claim R&D incentives, which creates a risk that Australian initiated IP will be created offshore.

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

[7] 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.

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

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. 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 companies had successfully applied for the R&D Tax Incentive. This number has dropped to 54% in the 2020 FinTech Census. Further to this, 2020 Fintech Census identified that 95% of fintechs indicate that the R&D incentive helps keep aspects of their business onshore, which has increased from 76% in the 2019 Fintech Census. 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 of an effective R&D Tax Incentive scheme would significantly hamper innovation and monetisation of Australian fintech offerings.

An increase in the R&D Tax Incentive from 43% to 65% for the 2021 financial year would be beneficial to the fintech ecosystem, as well as facilitating early access to R&D tax concessions. . Waiting for businesses to submit new claims for the 2022 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 small and medium-sized enterprises ("**SMEs**") (applying, for example, those with a turnover up to $50 million per financial year). This would provide immediate financial benefit to 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 source funds before they can begin to work on their innovation. Having the money after the fact allows spending on other things but prevents 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 should be simplified. Instead of fintechs going through an intensive application process which attracts overheads and delays, the scheme should be designed as a business innovation deduction, and discount/cashback rate. The 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.***

Venture capital

Venture capital is the life blood of the Australian startup industry, and is an essential component that members believe should be supported. This support can come in a number of ways. For example, one of our members has suggested incentivising and supporting the establishment of Australian founded venture capital funds that focus on investing in particular areas of fintech. For example, in 2020 the Victorian Government unveiled a $60.5 million investment to establish the Victorian Startup Capital Fund. This fund will invest in Victorian based venture capital funds, who will in turn invest in startups. This fund will assist early-stage firms in attracting venture capital, leveraging up to $180 million of private investment.[8] This would increase the amount of sophisticated capital flowing into the industry allowing these companies to rapidly expand, including to become export ready.

The Australian venture capital sector is less developed than other similar jurisdictions such as Europe, UK, US and Singapore. In Europe, the European Commission launched the European Scale-up Action for Risk capital pilot programme ("**ESCALAR**") on 8 April 2020. 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. The first project to sign to ESCALAR in early January 2021 was the

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

Swedish equity fund, eEquity, which concentrates on e-commerce and internet retailers.[9] In the UK, a member submitted that the UK venture capital ecosystem is currently around 5 years ahead of Australia across all metrics. Back home, we understand that Australian scale-ups have been leaving Australia to find venture capital in the UK due to their superior funding support network. If the government does not take proactive action to enhance our venture capital ecosystem, we risk losing high-growth scale-ups to foreign jurisdictions.

Members have provided several key solutions to these issues. Firstly, the government should emulate the UK Seed Enterprise Investment Scheme ("**SEIS**") and Enterprise Investment Scheme ("**EIS**") to empower early-stage investment in Australia. These measures provide tax relief to individuals when they invest in qualifying early-stage businesses. In addition to initial tax relief, individuals are rewarded with capital gains and other tax relief if they hold the investment for a requisite period, for example, 3 years. The government should also seek to emulate the Innovate UK grant scheme which provides early-stage businesses access to capital. While Australia's Early-Stage Venture Capital Limited Partnerships ("**ESVCLPs**") assists investors with funding early-stage venture capital investments through incentives including tax offsets, this model is more complex than the UK's scheme and does not provide the same incentives. For example, while ESVCLPs receive up to a 10% non-refundable carry-forward tax offset, UK venture capital businesses can receive up to 50% tax relief on personal CGT and up to 50% income tax relief on their investment through the SEIS and EIS schemes. Furthermore, ESVCLPs are constrained in relation to which type of companies they can invest in, with certain areas, including payments companies and authorised deposit-taking institutions ("**ADIs**"), due to limits of existing legislation in Australia. Significantly, these exclusions comprise a large number of fintechs, easily the majority by company's enterprise value, including lenders, neo-banks and ventures holding property assets. Given the large impact to such a large portion of the sector, the regime needs to be reviewed as a matter of urgency. Although some limits exist to access SEIS and EIS, in practice the UK scheme is far less restrictive than the Australian regime. It is important to note that the Treasury and Industry Innovation and Science Australia released a review of venture capital tax concessions in Australia on 7 July 2021, including the ESVCLP program and Venture Capital Limited Partnership (**VCLP**) program.[10] The review is set to enable the creation of a final report to be delivered to the Treasurer towards the end of 2021.

FinTech Australia recommends an independent review of the Industry Innovation and Science Australia's (**IISA**) discretionary powers in defining whether a company qualifies as 'early-stage'

[9] European Union, 'ESCALAR kicks off: First project signed with Swedish equity fund eEquity, 7 January 2021,
https://ec.europa.eu/growth/content/escalar-kicks-first-project-signed-swedish-equity-fund-eequity_en
[10] Treasury, 'Review of venture capital tax concessions',
https://treasury.gov.au/review/review-venture-capital-tax-concessions

in the context of the ESVCLP regimes. In determining whether a business qualifies as 'early-stage' under the ESVCLP regime, IISA has imposed criteria that are so restrictive that the system, in practice, no longer reflects its legislative intent. FinTech Australia understands that factors used by IISA as demonstrating a company no longer qualifies as early-stage include the following:

1. Annual recurring revenue of greater than $3 million AUD
    - Considering the legislated asset cap of $50 million, turnover of just $3 million would not be indicative of a high-performing business. Contrast this with ASIC's definition of a small proprietary company, for example, that imposes an asset cap of just $25 million yet a turnover cap of $50 million.

2. Investment of over $5 million in a single investee
    - The enabling legislation specifically permits an ESVCLP to invest up to 30% of its capital commitments in a single investee. When the Government increased the maximum size of ESVCLPs to $200m, it noted in the explanatory memorandum that this measure would enable an ESVCLP to invest up to $60m in a single investee.

3. An investment round of series B and beyond.
    - This criteria requirement makes it impossible for ESVCLP investors to provide follow-on capital, posing a significant barrier to scale.

The above criteria requirements are material because the tax exemptions that apply to investment in startups under the ESVCLP regime by Australian individuals no longer apply if those startups are forced to graduate prematurely into a VCLP or other investment vehicle. As such, IISA's restrictive eligibility assessments weaken the legislation's leverage in unlocking the vast volumes of domestic private capital and encouraging its investment in scaling Australian businesses. Finally, the UK has taken proactive steps to improve its venture capital ecosystem. Namely, the UK government required major UK banks to finance Innovate Finance, the UK's fintech industry body. The UK government also played a role in the creation of Tech Nation, a national network that supports tech entrepreneurs and fuels the growth of founders and scaling companies in the UK. Both of these bodies have enhanced the productivity of the UK venture capital ecosystem.

Furthermore, Australia has a strong superannuation scheme which should be encouraged to invest in early-stage businesses. Were this to occur, a significant amount of capital might be unlocked which would ultimately enhance the ecosystem and promote Australian innovative businesses.

Ultimately, the Australian government needs to increase engagement and funding in the space to close the gap between our domestic venture capital ecosystem and the UK, US and Singaporean ecosystems. Long-term changes can be achieved through ongoing reform while short-term benefits can be achieved through increased capital allocation.

Recommendation: Encourage individuals to allocate superannuation to early-stage investment via greater tax incentives.

Recommendation: Reform ESVCLPs by removing sector limits, providing greater tax incentives, including a larger non-refundable carry-forward tax offset and reforming the IISA early-stage criteria requirements.

Recommendation: The Australian government should support the access to capital for early stage Fintechs via a mandate for the national sovereign wealth fund The Future Fund to allocate a % of funds to ESVCLPs to invest in the early stage fintech ecosystem.

Recommendation: The Australian government should take proactive steps to enhance the Australian venture capital ecosystem through fund allocation and partnering with the major banks.

Debanking

Debanking is a considerable issue across the entire fintech market. It is an issue that must be addressed to maintain the health of not only the Australian fintech industry, but also its capacity to grow internationally. A considerable number of our members have either directly been debanked, often multiple times, or have dealt with parties such as other fintechs, partners or other banks that have been debanked. The issue is complex, as it affects companies broadly across different fintech verticals, such as payments, loans, remittance services, crypto-asset exchanges and others.

Throughout all the instances of debanking conveyed to us by our members, there is one commonality; that debanking is sudden and generally done without reason or explanation. One of our members has been debanked four times since 2018; consisting of one instance of debanking in 2018, once in 2019 and twice in 2020. 23 members have reported experiences with being debanked.

At least two members were debanked without any explanation regarding why this occurred. Another noted that the official reason provided to them in writing by the offending bank was "commercial reasons". Whilst another member debanked by a big 4 bank noted that the bank's motivation to debank them changed depending on who they spoke to. After closing one member's accounts funds were supposed to be sent by cheque. However, this money is still held by the bank, and has not been released. Rather disturbingly, one member has been advised by several big four banks that they have been debanked as the fintech does not fit their business model.

The lack of information and clarity surrounding the reasons for debanking increases the difficulty of identifying and fixing the relevant issues. Unless a business understands what the issues are, they cannot be fixed, impinging its ability to find new banking partners and may well contribute to reputational damage and harm growth and competition in the sector in the long-term .

Reasons for debanking

Despite the lack of information from banks, 2 key reasons for debanking appear to be emerging; (1) AUSTRAC and anti-money laundering and counter-terrorism financing; and (2) anti-competitive conduct.

In relation to anti-money laundering, our members believe that confusion and uncertainty surrounding our financial regulatory landscape, in particular in relation to anti-money laundering is partly to blame. Fear around recent AUSTRAC actions, such as its fine in excess of a billion dollars, significantly contributes to this sentiment. One member who was debanked noted that the bank cited risk of fines imposed by AUSTRAC, difficulty navigating the bank's own compliance frameworks, and either an inability or unwillingness to assess critical data that would address AUSTRAC's compliance requirements as reasons for debanking.

To combat this AML/CTF risk, one member who noted that many of their customers and other stakeholders in the fintech market were being debanked, took it upon themselves to support these affected parties by providing the relevant data to AUSTRAC which the banks were not capable or willing to provide. This is a particularly disappointing result, as it should not be on other market participants to rescue fintechs that have been seemingly abandoned by banks without clear or reasonable justification.

In relation to anti-competitive conduct, it has been suggested to us by our members that it is often the case that companies subject to offboarding challenge the banks' current market position, and that it may be done, at least partly, as a commercially convenient outcome for the bank. One member received reasons from the bank including that they were debanked because: they were a fintech; they held an Australian Credit Licence; they were a payments company; they issued cards in a scheme; and one of their accounts had been historically been overdrawn. Many of these indicate that the bank's motivations may have been genuinely anti-competitive. A lender member also submitted that from their experience, debanking by larger financial institutions is driven by anti-competitive motives. They note that the dynamic of having the established financial institutions own the payment architecture in Australia means that established players use their market dominance to prevent competition, meaning they do not have to compete with fintechs on cost or convenience to the consumer. This is not a good outcome for consumers.

Debanking undermines the entire fintech industry. For Australia to be a world class centre for financial technology, fintech companies must have equal access and opportunity when it comes to access to banking services. Like with any small business, it is not possible to progress without them. Allowing banks to debank fintechs gives them the position of defacto gatekeepers to innovation, as they then become the arbiters of who should and should not be provided banking services, and therefore a viable chance at success in Australia. The practical effect of this is that banks are seen as a single point of failure for a fintech company and present a risk to the health and viability of a business.

One member noted that repeated debanking events took a significant mental, financial and motivational toll on their business and team. They were only able to remain afloat due to investment from an international bank. It also stalled any prospect of growth or international expansion plans for up to 36 months. This was particularly damaging, as in this time multiple international fintechs entered the Australian market offering similar services damaging Australia's potential to be a fintech hub. Debanking is an issue that extends beyond the borders of Australia and is impacting the jobs and growth potential of Australia companies and their ability to compete in Australia and international.

One of our members ultimately noted that due to this environment, a fintech generally needs to leave Australia to survive, which is again incredibly damaging to the growth of innovation and job opportunity in Australia, and our country's capacity to develop as a world leading centre of financial technology innovation.

This is a particular issue for crypto-asset businesses. Some members reported that they and their clients have either had bank accounts blocked or closed due to buying and selling

crypto-asset or interrogated about what they intend to spend their money on, and whether it involves crypto-asset. Debanking has a chilling effect on the entire industry.

Debanking presents even greater challenges to payments fintechs as it not only severs a fintech's access to a bank account, it also removes their ability to access the payments rails or infrastructure which are essential to their operations. At best, this hampers growth, at worst, it prevents a business from operating. Even if another banking partner is found, the payments fintech is required to invest further funds reintegrating with the payment rails at the new bank. This all leads to higher costs for consumers. It may also erode consumer trust and confidence in the fintech particularly, where the fintech has suspend offering its services whilst finding a new partner. This also causes broader reputational damage to the industry.

The effect of debanking should also be considered outside of its effects on fintechs. One member noted that there are significant social justice implications where, for example, an individual wants to send their poverty-stricken family money overseas. Debanking can make this difficult where remittance companies' operations are constricted or ceased due to debanking.

The solution

FinTech Australia understands the committee's position that it does not wish to tell banks with whom they should bank. However, this problem is endemic and if not curtailed has the capacity to destroy the fintech industry and Australia's ability to become and maintain its status as a financial centre for innovation. Below, we provide a range of recommendations and solutions that we hope the committee seriously considers if they genuinely wish to assist the fintech industry in its time of need. These relate to providing access to payments infrastructure, clarifying the reasons for debanking, and relying on a business' own AML/CTF obligations.

Preventing the occurrence of debanking through enhanced regulatory clarity

FinTech Australia recommends that AUSTRAC should be required to release clearer guidelines to the industry to clarify the obligations of banks and the obligations of fintech businesses. A more transparent code of conduct will reduce the occurrence of debanking to the benefit of banks and fintechs alike, rather than the present situation whereby banks are debanking businesses due to unnecessary commercial risk.

Provide access to payments infrastructure

One potential solution to the risk of debanking for a fintech is direct access to the payments architecture in Australia. Although this does come with considerable compliance and capital costs for access to the New Payments Platform.

Requiring reasons for debanking and appeals process

Members also considered that a clearer, or perhaps a legislated, process for debanking would reduce stress and uncertainty and remove inconsistency across the market. Members have noted that in some circumstances they have been given 30 days to find a new bank. This is a considerable issue as the process to procure and engage new corporate banking services for an operating fintech would ordinarily take no less than six months. This acceleration of procurement places immense risk on a business and is ultimately damaging and unrealistic.

Some members noted that banks should be required to have valid reasons and be held accountable for the debanking decisions they make. This would include requiring banks to actively address risk and other commercial considerations with customers before a debanking decision is made. Members also noted that regulators should also address the issue of constructive debanking, where banks either cap value limits to cap a customer's growth or increase pricing or security arrangements which effectively debank clients.

To combat the frequent occurrence of debanking, banks should be required to have a duty not to act uncompetitively in the case of ACCC intervention. In turn, the AML/CTF Act or Rules should be amended to introduce a duty upon banks to act reasonably with regard to the interests of the customer and the stability of the financial system. Similarly, these same duties should apply to AUSTRAC in its enforcement activities. Many members noted that there was no uniform appeals process when they had been debanked. This is at odds with other industries, where there are independent bodies such as ombudsman, or the Australian Financial Complaints Authority, that consider and resolve disputes. A similar uniform and binding appeals process where debanked customers can speak with a clearly identified regulator or ombudsman, who would then determine whether the debanking was reasonable in the circumstances, would go far in solving some of the uncertainty and impacts of debanking. Members have submitted that the banks should have to justify why a debanking decision is made. Upon review, a decision to debank should be overturned where a bank has not acted reasonably. This process could be supported by a voluntary self-reporting scheme, where this proposed regulatory body holds a database of debanked entities. This would enable regulators to identify patterns of debanking behaviour and may assist in identifying systemic problems.

Reliance on a business' own compliance with AML/CTF obligations

Members also noted that where a fintech is already reporting to AUSTRAC directly, liability of the bank in respect of AML/CTF risks should shift to the fintech where that bank has made reasonable enquiries to confirm the fintech is complying with the requirements under the AML/CTF Act including reporting to AUSTRAC. This would provide more comfort to banks that the entity is subject to their own compliance obligations.

Recommendation: AUSTRAC should introduce clearer guidelines for banks and fintechs in relation to the obligations with an aim of reducing the occurrence of debanking.

Recommendation: Develop and implement an industry-wide debanking process to provide certainty across the market. This should include setting out clear guidance regarding when a person might be debanked as well as the process which will be followed.

Recommendation: Implement an appeals process where debanked customers can speak with a clearly identified regulator or ombudsman to determine whether the debanking was reasonable in the circumstances. This will hold banks accountable for debanking activities.

Recommendation: The ACCC investigate whether debanking is undertaken for anti-competitive reasons.

Note regarding debanking

It is important to stress that FinTech Australia and its members are asking that we are provided with certainty as to the process of debanking, as well as an appeals framework to limit debanking and prevent anti-competitive conduct. Above all, FinTech Australia recommends that measures are taken, as outlined above, to prevent the occurence of debanking before it has the potential to occur.

Neobanks

FinTech Australia is supportive of approving new banks to increase competition and sustainability of the banking sector. To do so, it is critical that neobanks are able to raise sufficient capital. Without sufficient capital, neobanks are unable to survive as banks are

required to meet certain liquidity ratios to operate. This is particularly difficult for a business that is in the process of scaling up.

One solution may be to increase access to capital to neobanks. Currently, there is a lack of incentives for early-stage investors. As discussed above in respect of venture capital, greater tax incentives for early-stage investment are likely to promote access to capital for neobanks. In particular, current policy prohibits Venture Capital Limited Partnerships ("**VCLPs**") and ESVCLPs from investing in ADIs. Furthermore, ADIs are also excluded from a range of investor incentives that are made available to foreign investors (such as the SIV scheme). These measures create barriers to access capital which is essential for a bank to operate.

Additionally, the current regulatory landscape is confusing for new banking entrants. The Australian Prudential Regulation Authority ("**APRA**") has often created additional obligations, or changed obligations, in relation to the requirements for prospective ADIs to gain ADI status. As a result, members consider the process of obtaining an ADI to be too opaque.

> ***Recommendation: Promote access to capital for neobanks by removing restrictions surrounding venture capital investment in ADIs.***
>
> ***Recommendation: Provide further clarity regarding the process to become an ADI.***

Australia as a technology and financial centre

Immigration

Strengthening Australia's visa schemes

Some of FinTech Australia's members have had considerable difficulty in attracting engineering talent in Australia over the past few years. One member has noted that the strict parameters set around skilled visa sponsorships is a major source of this problem. Another member has noted that the speed at which visas are issued is too slow.

This member notes that currently, experienced engineers, with over 5 years of experience, are required to have a 3-year degree to be fast tracked for sponsorship. However, this requirement does not align with the industry where a formal degree is not deemed to be necessary once an engineer has a few years of industry experience. Alternative measures such as a candidate

undergoing a skills assessment with the Australian Computer Society ("**ACS**") have strict requirements for a candidate to pass. This is an outdated and redundant process for many fast-scaling tech companies looking to hire engineers, as the formats and languages being checked by ACS are often no longer used. These, and other factors, make the skills assessment path to sponsorship an ineffective and fruitless route for most engineers without a degree.

There are now many pathways to hiring in engineering, including non-tertiary courses and re-skilling programs that encourage people from diverse backgrounds to enter the field. This should be reflected in the Australian Government's parameters around visa sponsorship, which currently precludes great candidates from being eligible for a fast-tracked skilled visa sponsorship. This would enable us to grow our talent pool here and would greatly go towards making Australia a world leading centre for financial technology innovation.

The same can be said for graduates. Australia has a world class education system that produces amazing talent. One of our members noted that they have encountered many highly skilled graduates with a variety of qualifications ranging to MBAs. However, as applicants often have no path to residency unless they are fortunate enough to be categorised as 'highly skilled', fintechs can only hire these individuals for a limited time frame until their visas expire. This places a limit on the amount of time and money a company can justify investing in a candidate. This does not incentivise companies to hire these people or for people to come to Australia.

Instead of making it difficult for this talent to stay and work in Australia, the Government should incentivise talent to stay and allow them to positively contribute to the economy. This would also enable fintechs to address the employee shortage for entry level roles and upskill our work force in a rapidly growing and innovative industry.

A member has also reported that their technical recruiters have informed them that because immigration is so difficult to navigate in the context of the pandemic, Australia's strict entry laws are preventing top talent from considering Australia as a viable option for short-medium term roles. This member noted that they have had headcount for senior roles reallocated to other global offices, including London and Dublin, over the past six months which were initially earmarked for the Australian office. Poor take-up and targeting of the global talent visa scheme has resulted in little alleviation of the acute skills shortages in critical technology roles, such as product and engineering. Guidelines should be introduced to ensure that the scheme targets world-class applied technology skills that will help scale Australian technology businesses, not just entrepreneurs who found new companies.

There are similar issues in attracting talent for junior roles, which is a challenge broadly faced by many across the broader technology industry at the moment. The combination of the hard border closure and reduced graduate numbers due to an absence of international students, has resulted in considerable competition for local talent to fill roles that are essential for growth.

Knowledge transfer program

As well as importing talent, Australia must enhance industry access to resources, skills and experience to continue to enhance the quality of its own workforce in key financial and technology growth sectors. In the UK, the Knowledge Transfer Partnerships program enables the UK government to partner with domestic universities to identify core programs to provide PhD students access to. In turn, PhD students are skilled-up with a growth company in an area such as artificial-intelligence, providing both the student and the company with unique value. Australia should seek to create a similar program.

Furthermore, Australia's Significant Investor Visa ("**SIV**") requires a person coming onshore to provide a certain amount of capital to then allow 20% of their funds to be placed into ESVCLPs and VCLPs. However, members have raised concerns that the government is not adequately tracking and confirming capital claims by SIV entrants, leading to an ongoing missed opportunity for the Australia venture capital ecosystem.

Recommendation: Broaden visa schemes and requirements to allow for the attraction and retention of international talent and allow non-Australians with Visas to be able to enter Australia.

Recommendation: Implement a domestic knowledge transfer program to promote knowledge transfer and skill-up PhD students.

Recommendation: Reform visa program to ensure high-quality global candidates are accepted into Australia.

Recommendation: Improve monitoring of SIV program to ensure compliance

Tax and attraction of international talent

One of FinTech Australia's members has noted that elements of Australia's current tax system are not conducive to attracting international talent. Australia's high corporate tax rate and the comparative high level of individual income tax in Australia, combined with other features of the Australian tax system makes Australia a less attractive destination for high earning fintech talent (as opposed to other competing jurisdictions such as the United States, New Zealand and Singapore).

By way of example, for households with one main income-earner, the United States has been a preferred destination, owing to the ability for a household to jointly file their income tax return. In order to make Australia more attractive to international talent, the Government should consider the tax rates in Australia (both at a corporate and individual level) and implementing specific incentive schemes for individuals working in the fintech industry. As technology businesses are predominantly driven by people costs, the Government should also consider reducing the burden of hiring people for start-ups which would enable them to hire early to support growth.

Recommendation: Re-evaluate pandemic related immigration policies to allow for the entry of international talent and students.

Recommendation: Lower individual and corporate tax rates in line with other competing jurisdictions, such as Singapore, the US, or New Zealand so as to remain internationally competitive.

Funding

Members have been increasingly vocal about requiring additional avenues of funding. This section will set out a series of recommendations for funding streams for fintechs, including a Business Development Fund, direct financial support through the Australian Future Fund and will provide examples of various international funds that could be adopted in Australia.

Business Development Fund

State and federal government should consider establishing broad industry funding and assistance programs. Queensland's Advance Queensland program is one such example which might be emulated. It 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."[11]

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 Wayne Gerard, CEO and Co-founder of Redeye. 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 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.[12] 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.[13]

The Victorian Government has also announced in late 2020 a $10.3 million Innovation and Digital Jobs program, which will aid in the support and adoption of innovative technology in respect of SMEs.[14]

> ***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.***

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[11] Advance Queensland, *About Advance Queensland,* https://advance.qld.gov.au/about#:~:targetText=Advance%20Queensland%20is%20our%20vision,as%20an%20attractive%20investment%20destination.
[12] Queensland Government, 'Business Development Fund', https://www.treasury.qld.gov.au/programs-and-policies/business-development-fund/
[13] Queensland Government, 'Palaszczuk Government backs Queensland jobs and industry with $1 billion boost' (7 September 2020), https://statements.qld.gov.au/statements/90683.
[14] 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 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/early-stage Australian businesses, through Australian venture capital investment managers.***

Examples of international funds

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.

<u>France</u>
In 2020, the French Government committed €4 billion to the startup sector, as part of a larger €300b commitment.[15] This commitment includes loans to guarantee wages of startup

[15] Reuters, 'France launches 4-billion-euro support plan for start-ups: minister', 25 March 2020, https://www.reuters.com/article/us-health-coronavirus-france-tech-idUSKBN21C0R9

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.

More recently, the French government has committed to setting up a new €3 billion fund to support mid to large-sized companies with post-covid recovery.[16]

Singapore

The Singapore Financial Sector Technology and Innovation Scheme (**FSTI**) provides a range of grants to promote innovation and growth in the financial sector. Importantly, the FSTI includes the 'Digital Acceleration Grant - Financial Institutions and FinTech Firms' for Singapore-based financial institutions and FinTech firms with no more than 200 employees. The grant provides 80% co-funding of the requisite qualifying expenses (e.g. Compliance & KYC tools), capped at $120,000 per entity for the duration of the scheme.[17]

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

ESIC

Members have been highly supportive of Federal and State based grant schemes such as the Early Stage Investment Company scheme ("**ESIC**") and the R&D tax incentive scheme. Many members have greatly benefitted from these schemes and, with one member in particular recommending that they be supported and maintained.

> ***Recommendation: Support and maintain existing Federal and State government grant schemes such as ESIC and the R&D tax incentive scheme.***

FinTech Bridge and other international schemes

FinTech Australia and its members remain highly supportive of the FinTech Bridge with the UK and Singapore, however, more needs to be done to support our local fintechs that participate. Particularly, members have expressed disappointment with the increased attention and

[16] Reuters, 'France set up three billion euro company support fund', 1 June 2021, https://economictimes.indiatimes.com/news/international/business/france-to-set-up-three-billion-euro-company-support-fund/articleshow/83145139.cms
[17] Monetary Authority of Singapore, https://www.mas.gov.sg/development/fintech/digital-acceleration-grant

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 align with the assistance that the Department of International Trade grant UK fintechs.

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. For example, FinTech Australia supports the recent announcement of the Government's intention to introduce the Australian-Singapore Fintech Bridge.[18] It is also vital that the 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.[19]

One member notes that while other schemes such as the UK FinTech Bridge have also seen considerable support amongst our members, there are further opportunities in this area that are not yet being utilised to their full potential. One such example is the opportunity to use the coming free trade agreement with the United Kingdom as a means for regulatory harmonisation between Australia and the United Kingdom.

FinTech Australia supports the commitments in the UK Australia In Principle Free Trade Agreement regarding alignment of our financial services regulation and mutual support for innovation. One member in particular, noted that the commitment to provide a foundation for further enhancing regulatory cooperation including working towards mutual compatibility and regulatory deference are significant, will result in meaningful outcomes to business. So too will removing the digital barriers to trade.

These commitments are incredibly beneficial for fintechs seeking to operate both here and in the United Kingdom. This also has the potential to alleviate the skills gap to better enable the importation of skilled workers, as outlined in the In Principle Agreement.[20] One member has also welcomed the establishment of the Talent Attraction Taskforce led by the Prime Minister's Special Envoy for Global Business and Talent Attraction, which is tasked with examining ways

[18] Prime Minister of Australia, https://www.pm.gov.au/media/joint-statement-prime-ministers-singapore-and-australia#:~:text=The%20initiative%20will%20see%20business,an%20Australia%2DSingapore%20FinTech%20Bridge.
[19] 2020 FinTech Census, 7.
[20] https://www.trademinister.gov.au/minister/dan-tehan/media-release/new-free-trade-agreement-deliver-jobs-and-business-opportunities-australia-and-united-kingdom

to encourage global talent relocating to Australia is a prerequisite for Australia to establish itself as a financial and technology centre.

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 align with the assistance that the Department of International Trade grant UK fintechs.

Instances of corporate law holding back investment

One member has noted that it is commonplace for early stage companies that are not backed by venture capital to raise investment from high net worth investors and small funds. Often this will be with small ticket sizes and a large number of investors, resulting in that fintech transitioning into an unlisted public company. Fintechs in this position are no longer eligible for investment by ESVCLPs, and accordingly, outside the appetite of many 'scale-stage' investors. This is a gap that should be addressed, as these fintechs should, within the spirit of the ESVCLP scheme, still be eligible.

Another member noted that simple corporate efficiency changes, such as ensuring that electronic signatures are legally valid and enforceable, would be highly beneficial. Through Covid19, temporary changes were made to allow persons signing electronically to rely on the same presumptions under the Corporations Act. Other temporary changes were also imposed to allow deeds to be signed electronically. These facilitated fully digitised transactions to occur. Making these permanent would be relatively simple and provide significant benefit to the fintech industry.

Purchased Payment Facility Review

One of FinTech Australia's members has noted their support in respect of the announcement that a new framework to replace the purchased payment facility framework ("**PPF**") will be developed by ASIC, APRA and the Treasury. This member has submitted that it would be

beneficial to expedite this process, as they see this new framework as being significant to the development of the entire fintech sector. Support was also voiced for the changes to the PPF in accordance with those in the Council of Financial Regulators review into the Retail Payments Regulation, specifically surrounding the concept of stored value facilities.

Consumer Data Right

As previously submitted by FinTech Australia, members have called for the introduction of tiered accreditation as well as the release of a clear roadmap to action initiation. The UK Open Banking framework has already achieved action initiation, known as write access. These changes are critical to attract data recipients, enhance use cases under the Consumer Data Right and ultimately promote consumer adoption of the framework.

Conclusion

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

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.

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