

**Select Committee on Financial Technology and Regulatory Technology**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**Australian Small Business and Family Enterprise Ombudsman**

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**INQUIRY:** Financial Technology and Regulation Technology

**TOPIC:** Certification of employee payment regulation technology products

**REFERENCE:** Spoken Question (Hansard Page)

**QUESTION DATE:** 14 July 2020

**Senator SMITH asked:**

Senator SMITH: I'm not sure if there's anything you can take on notice there, for me, but I think if there's a way we can look at this that ensures workers are receiving what they're entitled to, businesses are supported to have less of a regulatory burden and get the job done, and it's not overly burdensome on government, I think it's a very interesting idea—and especially for our committee, in the issues we're looking at. We probably don't have time to keep exploring it now in this block, but if there's anything more you could contribute on that idea off-line, I would really appreciate it.

**ANSWER**

The problem is system complexity that means small business cannot get certainty. Where simplification is not immediately attainable, providing clarity to businesses, through regtech products and streamlined awards guidance, would help business owners avoid making incorrect payments in the first instance, rather than hoping they are not underpaying their staff despite their best efforts and potentially facing penalties later. As importantly, certified regtech products and streamlined guidance would benefit employees who would have greater confidence that they are being correctly remunerated for their work leading to fewer workplace disputes. Solutions for implementing these are:

1. The Fair Work Ombudsman (FWO) develop and provide to each regtech company that wishes to gain compliance accreditation, a test package for each award. The regtech companies would test their systems and provide the results to the FWO. If their results are compliant, they would then receive accreditation.

A list of accredited regtech products would be published and maintained by the FWO. The FWO could alter and re-administer the test packages on a regular basis. This would ensure ongoing wage compliance for small business through any software changes by the regtech companies or changes or new interpretation to awards or legislation.

Where a small business correctly used an accredited regtech product and is found to be incorrectly paying staff, they would make good on the payment but face no additional penalties or prosecution. Where a small business chooses not to use an accredited product, they are subject the system as it currently operates.

2. The provision of public legally binding rulings on award interpretations be used by the Fair Work Commission in response to more complex questions posed by regtech companies. These rulings could be built into regtech products to ensure compliance with complicated award and legislative clauses.

This would again provide clarity and confidence to regtech companies in developing robust products. The rules could also be made available to those businesses that chose not to use regtech.