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Senate Select Committee on Financial Technology and Regulatory Technology

KPMG Submission
Second Issues Paper

January 2021

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As a leading professional services firm, **KPMG Australia (KPMG)** is committed to meeting the requirements of all our stakeholders – not only the organisations we audit and advise, but also employees, Governments, regulators and the wider community.

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Executive Summary

As a leading professional services firm, KPMG Australia (KPMG) is committed to meeting the requirements of all our stakeholders – not only the organisations we audit and advise, but also employees, Governments, regulators and the wider community. We strive to contribute to the debate that is shaping the financial services industry and welcome the opportunity to provide a submission to the Second Issues Paper (Issues Paper) released by the Senate Select Committee on Financial Technology (FinTech) and Regulatory Technology's (RegTech) (the Committee).

KPMG welcomed the establishment of the Committee given that developments in FinTech and RegTech are at the forefront of the digital revolution that is changing how businesses, consumers and government bodies operate around the world. KPMG is pleased to respond to the Issues Paper that turns its attention to investigating some of the longer-term issues that drive future jobs and economic growth and ensure Australia remains globally competitive.

KPMG provided a response to the Committee's initial request for submissions in December 2019 and we welcomed the Committee's Interim Report and its 32 recommendations. Particularly we strongly welcome the recommendations that note the need for further clarification around eligibility for tax incentives to ensure genuine software and technology creation by Australian start-ups, the establishment of a new national body to deliver the landmark Consumer Data Right (CDR), creating a stronger competition mandate to promote innovation and guard against anti- competitive behaviour, supporting innovation like Buy Now Pay Later products and establishing a framework to regularly assess Australia's global competitive position.

KPMG is also pleased to see several important FinTech/RegTech initiatives funded in the 2020-21 Federal Budget, following the Interim Report's finalisation, including $11.4 million over four years for the RegTech Commercialisation Initiative, $9.6 million over four years to help FinTechs expand into international markets and $6.9 million over two years for industry led blockchain pilots to reduce regulatory compliance costs.

KPMG's previous submission to the Committee provided an 11-Point Action Plan to support the continued growth of a vibrant FinTech and RegTech industry which is again outlined at Section 1 of this submission. However, at the time of writing the 11-Point Action Plan, COVID-19 had not yet begun to shift the world in ways that we could have not predicted. COVID-19 has disrupted supply chains and will have a long-lasting impact on how we work and do business. Geopolitical tensions are making it harder for the FinTech/RegTech industry to trade across borders and access to capital is becoming increasingly constrained.

This submission is structured in a way that seeks to respond to the themes outlined in the Issues Paper and Section 2 covers the following topics:

1. Competitiveness of Australia's corporate tax settings
2. Research & Development agenda for growth
3. Regulation - Consumer Data Right
4. Data standards and blockchain
5. Data Security
6. National interest considerations
7. Talent Acquisition / retention

KPMG looks forward to continued engagement with the Committee as it develops its final report over the coming weeks.

Regards,

Ian Pollari
Partner

National Sector Leader, Banking and Global Co-leader, Fintech Practice

KPMG Australia

Daniel Teper
Partner

Acquisitions and Head of Mergers & FinTech (Australia)

KPMG Australia

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Background

KPMG is a global network of professional firms providing a full range of services to organisations across a wide range of industries, governments and not-for-profit sectors. We operate in 147 countries and territories and have more than 219,000 people working in member firms around the world. In Australia, KPMG has a long tradition of professionalism and integrity combined with our dynamic approach to advising clients in digital driven world.

KPMG has been an active supporter in the development of the Australian FinTech and RegTech eco-systems as evidenced through our research and publication of the FinTech Opportunity for Sydney (and Australia) in 2014 and Scaling the FinTech Opportunity in 2016; our Founding membership of Stone & Chalk; and frequent engagement and collaboration with Australian regulators, institutions and RegTech companies.

Section 1:

KPMG recommendations for a vibrant FinTech/ RegTech sector

In response to the Committee’s Issues Paper released in December 2019 KPMG provided a submission that outlined an 11 Point Action Plan for a vibrant FinTech/RegTech industry. This plan is copied below.

Recommendation 1: Government develop and publish clear metrics for development and success of the Australian FinTech and RegTech sectors.

Recommendation 2: Government reposition and manage FinTech and RegTech policies within the broader Financial Services system, including innovation objectives for sectors of the industry and incumbents as well as start-ups and scale-ups.

Recommendation 3: Government create a new, centralised coordinating mechanism (within Treasury) to assess existing and new regulatory requirements for the FinTech sector in a holistic manner.

Recommendation 4: Government develops and implements a FinTech strategy that better markets and promotes Australia’s strengths internationally and also undertake capability assessments to identify and address deficiencies on an annual basis.

Recommendation 5: Government consider and implement measures to improve the ability of SME and start-up businesses to access procurement opportunities from established businesses, as well as Government agencies.

Recommendation 6: Government effectively engages all stakeholders across the ecosystem in strategy development so that priorities and collaboration efforts are aligned (including between Commonwealth and state and territory Governments).

Recommendation 7: Government develop a strategy for attracting investment into the Australian ecosystem through grant funding, tax measures and other collaboration initiatives.

Recommendation 8: Government consider and implement initiatives that seek to increase the accessibility to FinTech innovations in regional areas.

Recommendation 9: Government include a strong focus on connectivity and knowledge of culture, business, regulation and market opportunity in Asia in any whole-of-government FinTech strategy.

Recommendation 10: Government develop and implement measures to facilitate Australian FinTech businesses (including start-ups) to access overseas markets through specialised programs, enhanced coordination and better targeting of FinTech companies.

Recommendation 11: Government include an assessment of current and future workforce skills in any whole-of-government strategy for the FinTech and RegTech sectors.

In response to COVID-19 and the Second Issues Paper an additional set of recommendations is set out below.

Recommendation 12: Further consideration of the benefits of loosening the eligibility requirements for company tax loss carry-forward, for example for the first few years of trading, or while aggregated turnover remains below $50 million. Limiting this to FinTech/RegTech companies could involve complex definitional issues, and so the government could consider applying such a measure across all industries.

Recommendation 13: Further consideration of a new 'innovation company' structure which seeks to monetise tax losses and attract high-net-worth-individuals into Australia's FinTech/RegTech start-ups.

Recommendation 14: Explore the merits of an innovation tax incentive or software specific tax incentive to support innovative software development in Australia that doesn't qualify for support under the R&D Tax Incentive program.

Recommendation 15: Consider introducing a collaboration premium to incentivise business to collaborate with each other and Australian researchers.

Recommendation 16: Consider the introduction of an IP box regime to help keep commercialisation of IP in Australia.

Recommendation 17: Consider the value proposition of creating a statutorily independent body to provide cheap finance to innovative FinTech and RegTech businesses.

Recommendation 18: Undertake a review of the Early Stage Investor Tax Incentive and Early Stage Venture Capital Limited Partnership programs to see if they are achieving their objectives and how they might be improved.

Recommendation 19: Expanding the current CDR to include other providers of financial services including non-bank lenders, FinTechs, and the providers of insurance, super and wealth products given the CDR is seen as an effective mechanism to increase competition. The regime could and should also be expanded beyond financial services to sectors of the economy where there is a high degree of concentration and where consumer data is a significant element facilitating that concentration (e.g., social media platforms, big tech).

Recommendation 20: The consideration of necessary updates to Australia's privacy and consent regime, as well as taking into account global changes to these regimes in any expansion to the CDR regime.

Recommendation 21: That government seek to build a robust local CDR system with high uptake before cross-border expansion as this will provide a stable platform from which to build / expand.

Recommendation 22: That the government assess the impact of Virtual Asset Service Providers (VASPs) on the FinTech/RegTech sector and the associated regulatory and government policy response that may be required to best facilitate this emerging industry.

Recommendation 23: Measures that seek to promote Australia as a cyber-safe FinTech/RegTech hub given the strong investment the sector has made into cyber security compared to the global average.

Recommendation 24: Incentives for the financial services sector to invest in cyber security start-ups, positioning Australia as a cyber hub.

Recommendation 25: A 'tiered' approach to approvals for foreign investors that would be dependent on whether the government was actively encouraging investment from a country, whether the investor was passive or active or whether approvals may be expediated if certain criteria is met.

Recommendation 26: The careful consideration of alternatives rather than defining 'critical infrastructure' so broadly as to possibly capture some FinTech/RegTech organisations in the proposed changes to the Security Legislation Amendment (Critical Infrastructure) Bill 2020.

Recommendation 27: Improvements to the Global Talent Scheme and Hong Kong visa class to ensure international competitiveness in a highly competitive global market including a review of salary caps, age thresholds, turnover requirements and key criteria.

Recommendation 28: Include KPIs for processing times and accrediting specialist third parties to review visa eligibility so that visa categories are adaptable and responsive to market changes in the FinTech/RegTech sectors.

Section 2:

Response to the Second Issues Paper

Competitiveness of Australia's corporate tax settings:

The corporate income tax rate for a FinTech/RegTech company with aggregated annual turnover of less than $50 million is 26 percent for the 2020-21 income year and will fall to 25 percent from 2021-22. This headline rate ranks among the lower of those of the comparator countries examined in a 2017 paper *International Trends in Company Tax Collective Investment Vehicles* (the paper) co-authored by KPMG and Treasury[1]. It is comparable to the current average US rate once state taxes are included.

This paper aimed to provide a cross-country comparison, drawing out the similarities and differences between corporate tax systems. Australia's corporate tax system was chosen as the centre of this study. The major North American (United States and Canada), European (United Kingdom, Germany, France, Netherlands and Ireland) and Asian (China, India, New Zealand, Japan, Korea, Hong Kong, Singapore and Indonesia) economies were selected, as they were identified as major players in the global economy and important trading partners to Australia.

As noted in the paper, the headline corporate tax rate should not be considered in isolation from the effective tax rate borne by shareholders who are resident in the same country. For example, Australian resident shareholders may use the franking credit on a franked dividend to offset their tax liability on other income if their average tax rate is less than the company tax rate. In other countries, shareholders may pay tax on their dividend income at reduced rates that recognise to varying degrees that company tax has already been paid.

In their early stages, companies may receive equity investment from a variety of sources and at different points in time. The business plan and products and services that the company is developing may also evolve to better fit a rapidly changing market. A company is currently only entitled to offset losses of an earlier year against profits of the current year if it can satisfy either a "similar business" test or a "continuity of ownership" test. These requirements introduce uncertainty for early-stage technology businesses, which can inhibit additional investment and innovation.

The government could consider whether it remains appropriate to apply these tests to a company that is in its early stages of trading, or which has not increased its aggregated turnover beyond the $50 million threshold for the lower company tax rate. Limiting such a measure to companies in a particular industry may be difficult, and so there should be a broader examination of whether this would be effective in reducing early-stage entrepreneurial risk across all industries.

In 2015 the federal government undertook a Tax White Paper process.[2] One of its responses the following year was to introduce tax concessions for certain investors in an early stage investment

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[1] *https://treasury.gov.au/publication/international-trends-in-company-tax-and-collective-investment-vehicles*

company (ESIC). An ESIC is an unlisted company that had revenue of less than $200,000 and expenses of less than $1 million in the preceding year of income, and that also meets certain innovation-related criteria. The immediate benefit for the investor of the ESIC tax concession is a 20 percent non-refundable tax offset of up to $200,000.

One of KPMG's ideas submitted to the Tax White Paper inquiry was for an innovation company structure, designed to assist in reducing the movement of innovative businesses offshore, provide much needed cash to pay salaries during the start-up phase and address access to funding. In 2020, its objective would be to support investment in emerging companies that have progressed beyond ESIC status.

KPMG's proposed structure would leverage the one asset that most innovation companies have - tax losses, that can then be monetised. The initiative would be attractive to many high-net-worth individuals with company structures that would prefer to pay an amount to a company in which they have, or are to obtain, an investment interest, rather than additional tax. Thus, the initiative fits well with the motivations and drivers of many wealthy individuals.

Key features of the 'innovation company' structure are as follows.

- The definition of an innovation company would need to be established and would probably be between the ESIC threshold and the $50 million aggregated turnover threshold. It would be able to transfer losses to another company. The transferable loss would be limited to 70 percent of the amount of salary expenditure.
- Full consideration would be paid for the loss at the 26 percent / 25 percent tax rate. In order to be able to receive the benefit of a transferred loss, an equity investment of a multiple of the loss (say, five times) would need to be made for at least two years. If the two-year investment period was not met, the loss transfer would be reversed in the year that the two-year rule was broken.
- A cap on the maximum amount of a transferable loss would be set, say, at $5 million. The two main advantages with the above approach is that the concession follows the commercial decision to invest (and government is not picking winners) and that it promotes salary expenditure (which will be assessable on the employee at marginal rates which would typically exceed the applicable company tax rate).
- The innovation company model proposed above and in KPMG's Tax White Paper submission would promote investment in technology for start-up businesses that have cash funding challenges.

Recommendations:

That the Committee consider recommending:

- Further consideration of the benefits of loosening the eligibility requirements for company tax loss carry-forward, for example for the first few years of trading, or while aggregated turnover remains below $50 million. Limiting this to FinTech/RegTech companies could involve complex definitional issues, and so the government could consider applying such a measure across all industries.
- Further consideration of a new 'innovation company' structure which seeks to monetise tax losses and attract high-net-worth-individuals into Australia's FinTech/RegTech start-ups.

Research & Development (R&D) agenda for growth:

KPMG welcomes the Committee's finding that investment in R&D will be an important contributor to rebooting Australia's economic growth and making Australia attractive to start-ups and larger tech companies. The 2020-21 Budget announced that an additional $2 billion would be retained in the R&D Tax Incentive (RDTI) along with a range of other funding programs to help industry innovate and grow which was strongly welcomed by the FinTech/RegTech sector and the broader business community. The renewed commitment to the program is already providing industry with the much-needed stability and confidence to plan and invest.

KPMG understands that the Committee is now interested in ideas to further encourage R&D activities in Australia, to assist the tech sector to drive growth in the Australian economy.

In relation to the RDTI, the Committee may want to consider some residual issues industry has with administration of the program, especially regulator review and interpretation of software-based R&D activities.[2] As part of the Budget reforms, the Board of Innovation and Science Australia (the Board) now has the power to make binding determinations on interpretation which it is hoped will be used to provide greater clarity to both industry and regulators alike.

A recent report for Innovation and Science Australia (ISA) noted that whilst the RDTI supports R&D based innovation, there are other types of innovation which do not require R&D but have the same potential to benefit both the business developing the innovation and the broader economy.[3] Examples of this include novel hardware and software solutions which use existing technologies to develop previously untapped markets.

In the context of FinTech and RegTech, there are many innovative solutions being developed that do not currently qualify for the RDTI. As such, government could consider a specialised innovation tax incentive or a specialised software-based tax incentive to provide support for innovative software solutions which do not qualify for existing tax incentives or grants. In addition, a collaboration

[2] *As outlined in the Small Business and Family Enterprise Ombudsman's review of the R&D Tax Incentive, December 2019 (available here, last accessed 8 December 2020).*

[3] *AlphaBeta (2020) Australian Business Investment in Innovation: levels, trends and drivers, a report for the Office of Innovation and Science Australia, January 2020.*

premium which would reward companies for collaborating with each other and with research institutions could be developed to further incentivise innovation.[4]

As has been proposed by others in the industry the government could also consider an IP box regime, similar to that offered by the UK. An IP box is a policy tool that applies a lower rate of corporation tax to any profits made from IP developed in that country. An IP box regime targets the last stage of the innovation lifecycle, namely commercialisation and has been introduced by a number of countries. A review of such a regime was undertaken by the Department of Industry, Science, Energy and Resources in 2015[5] and following BEPS Action 5, most IP boxes require the IP to have been developed in the same country. A patent box regime which rewards business for developing and keeping IP in Australia would not only encourage companies to invest in innovation in Australia but help keep commercialisation of any resulting IP here as well.

On access to capital, we note the Victoria Government recently announced low interest loans to help companies undertake R&D and in response to COVID-19, the federal government has set up the SME Guarantee Scheme which is providing much needed cheap capital to SMEs. In the longer term and more specific to FinTech/RegTech, something like the Clean Energy Finance Corporation (CEFC) but for financial services would better coordinate access to capital at a national level.

Lastly, reviewing the Early-Stage Investor Tax Incentive may be warranted to see if it has achieved its purpose and if not, how it could be improved and reviewing the ESVCLP rules to see if the exclusion on financial services is unduly limiting investment into early stage FinTechs and RegTechs may also be beneficial.

Recommendations:

That the Committee consider recommending:

- Explore the merits of an innovation tax incentive or software specific tax incentive to support innovative software development in Australia that doesn't qualify for support under the R&D Tax Incentive program.
- Consider introducing a collaboration premium to incentivise business to collaborate with each other and Australian researchers.
- Consider the introduction of an IP box regime to help keep commercialisation of IP in Australia;
- Consider the value proposition of creating a statutorily independent body to provide cheap finance to innovative FinTech and RegTech businesses.
- Undertake a review of the Early Stage Investor Tax Incentive and Early Stage Venture Capital Limited Partnership programs to see if they are achieving their objectives and how they might be improved.

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[4] *As recommended by several reports; 3F report and the ISA Prosperity 2020 report.*

[5] *https://www.industry.gov.au/data-and-publications/patent-box-policies*

Regulation - Consumer Data Right:

KPMG welcomed the Federal 2020-21 Budget's commitment of $28.6 million in funding to continue the implementation of the Consumer Data Right (CDR) and commence work on its rollout in the energy sector. KPMG understands that the committee is interested in what kinds of measures may be required as the Consumer Data Right further evolves in Australia to ensure that it increases competitive forces.

With the passing of the Consumer Data Right (CDR) Bill in August 2019, an open data economy has been introduced in Australia. This means consumers have greatly improved access to, and control over, their own data. Open Banking is the first step in what will inevitably be an 'open data' future – in which institutions and customers are all part of a safe, robust and innovative 'data economy' where banks (and other large 'data holders') will no longer compete in relation to the provision of their core services, but also in the emerging data sector.

Open Banking means that a customer of a bank – whether an individual or business – can request or give consent for their data to be shared with an accredited third party such as (but not limited to) another bank, a product comparison site, FinTech business or utility provider (such as a telco or energy company). It offers the potential for customers to have clearer visibility of their data, and to make more informed decisions based on insights to be drawn from their data.

For competing providers of financial services (including new market FinTech/RegTech entrants), having access to customers' banking data can increase their ability to attract potential customers. It can also enable new and competing providers to better tailor their products to a customer's specific needs and at a more competitive price, opening opportunities to develop new products and services.

To realise the full potential of the open data economy, it is important that there are as many participants as possible contributing data to the system. In the financial services sector, this includes more recent entrants to the ecosystem, including 'big tech' and the broader FinTech sector which are expected to bring competition and innovation to the system. Principles of reciprocity should also be explored, as there is a risk that data will become fragmented, incomplete and ultimately biased if only some data holders are required to participate in the system. However, several issues need to be considered to ensure fairness and security of the system. If 'big tech' and the broader sector want to participate this should not be a one-way street. To ensure a level playing field, there should be a mechanism to investigate the data the companies hold and mandate a fair exchange of data.

Government should also look to ensure there is enough regulatory and legislative protection for Australians' privacy and security. The more that personal data becomes an asset that can be 'traded', the more important it is to ensure that privacy and cyber security risks are properly managed. Currently, Australia's privacy regime is under review (in a context where there is no unified global regime for data protection). The question of appropriate consents also needs consideration, as a robust consent model is still yet to be developed. In a more complex and competitive financial ecosystem, there will be greater potential for bundling of financial and non-financial products and services, creating new challenges for our future consent model.

In addition to banking, energy and telecommunications, there may be a range of other industries where consumers would be well served by a CDR. These would include (but not be limited to) sectors such as non-bank lenders and mutuals, insurance providers, and providers of superannuation and wealth products. This would enable a great number of use cases to help Australians to understand their financial health and to make better financial choices. Ultimately, it is conceivable that all consumer data will be tradable and traded, as long as it can be done safely. For example, the same arguments that are applied to open banking increasing competition in the provision of financial services could be applied to a regime for the open exchange of social media data (as that could help promote greater competition in a sector that has been identified as dominated by a handful of large social media platforms).

Another CDR system consideration is the ability to add payments which could support bringing additional use cases to life such as account switching. Consideration could also be given to extending beyond consumers to small business.

The CDR regime would also benefit from a mechanism to allow aggregators and payment gateways to make it simpler for FinTechs and others to connect to participants. The current requirement to connect to multiple entities is prohibitive in time and cost. For example, the creation of the mysuper comparison tool, whilst useful, is only one of several use cases that could be supported by adding superannuation into the open data regime and this should continue.

KPMG understands that the Committee is seeking feedback on the potential for Australia's CDR to interact with open banking data sharing schemes in other jurisdictions, however we are mindful that while connecting to other global CDR regimes may provide some additional capabilities, the focus for now, should be developing a robust local system with good consumer uptake and broad participation from big and small service providers.

Recommendations:

That the Committee consider recommending:

- Expanding the current CDR to include other providers of financial services including non-bank lenders, FinTechs, and the providers of insurance, super and wealth products given the CDR is seen as an effective mechanism to increase competition. The regime could and should also be expanded beyond financial services to sectors of the economy where there is a high degree of concentration and where consumer data is a significant element facilitating that concentration (eg, social media platforms, big tech).
- The consideration of necessary updates to Australia’s privacy and consent regime, as well as taking into account global changes to these regimes in any expansion to the CDR regime.
- That government seek to build a robust local CDR system with high uptake before cross-border expansion as this will provide a stable platform from which to build/expand.

Data standards and blockchain:

KPMG understands that the Committee is interested in further exploring the issue of international data standards and facilitating data sharing with other jurisdictions in order to best enable FinTechs, RegTechs and other Australian stakeholders to benefit in the long term, however one area that may not have been considered by the Committee is the development of Virtual Asset Service Providers (VASP) in the financial services sector.

VASPs are business and / or individuals that may provide several different activities and services. VASPs deal in 'virtual assets' – which hold digital value that can be digitally traded, or transferred, and can be used for payment or investment purposes. A common example of a virtual asset is a cryptocurrency, such as Bitcoin.

VASPs are continuing to disrupt and mature and are eyeing opportunities to scale up and institutionalize within the FinTech/RegTech landscape. Regulatory bodies are now taking the virtual asset industry seriously, while institutional investors are shifting from keeping a watchful eye, to actively engaging with the most professional players. In fact, some established financial services institutions are taking things a step further and are preparing their own virtual assets service offerings.

By delivering an optimal customer engagement experience, VASPs can streamline participation for institutional players. Drawing on evolving regulations, VASPs can increase security through strict customer onboarding and Know Your Customer (KYC) programs and build trust through advanced Anti-Money Laundering (AML) and Counter Terrorism Financing (CTF) practices.

For example, reliable policies and procedures will help prepare Crypto Exchanges to scale and meet the expectations of large institutional investors and consumers alike. Embracing automation technology for ongoing monitoring, review and improvement will provide assurance to regulators, who are becoming more comfortable with new technologies and developing appropriate frameworks in each jurisdiction.

KPMG has collaborated with several Crypto Exchanges to provide fully automated and service driven tax estimation services to organisations that are transacting on a crypto exchange and want a simplified and compliant liability assessment. As the virtual asset industry and its ecosystem grows, custody and safekeeping services will emerge as a prerequisite of institutional investment. VASPs need to offer secure custody solutions of their own or ensure application programming interface (API) integrations are in place for seamless connectivity to third party custody providers.

Strong governance and risk management for virtual assets must start at the top with experienced leadership, supported by governance bodies and sophisticated risk management frameworks across customers, vendors and internal staff. If appropriately regulated and governed, there may be significant potential for VASPs to deliver to institutional demand, and forge long lasting value propositions ahead of traditional financial services organisations.

Recommendations:

That the Committee consider recommending:

- That the government assess the impact of Virtual Asset Service Providers (VASPs) on the FinTech/RegTech sector and the associated regulatory and government policy response that may be required to best facilitate this emerging industry.

Data Security

KPMG understands that the committee is interested in approaches to cyber security in the FinTech and RegTech space and is seeking feedback on whether current data security industry practices and requirements are adequate.

Actively managing customer trust in the financial services sector, amidst constant and accelerating technological disruption, presents industry with fresh challenges. Trust has become central to customer experience, and financial services organisations are demonstrating a commitment to trust through their investment in cyber.

KPMG's 2019 report *Securing the future of financial services – driving innovation with confidence* provided insights from a roundtable discussion between global KPMG cyber security leaders[6]. The report looks at several key questions which are currently being considered by security leaders in financial services. A few common themes were evident in the discussions including:

- Growth of virtual banks – virtual banks are not just a competitive threat to incumbents; they are also forcing the pace in IT infrastructure transformation in order for traditional banks to keep pace with new players.
- Use of AI and bots – these service delivery options are revolutionising interactions and transactions, but these should also be kept on a leash, to ensure they are secure and trustworthy, and that they contribute to, rather than disrupt, the customer experience.
- Everything as-a-service – with increasing availability and range of services, financial services organisations must ensure their governance and controls are sufficient to cope with a growing range of partners, particularly when it comes to supplier selection, data security and privacy.
- Roles of risk officers – are set to change as cyber policy, risk and compliance moves from the Chief Information Security Officer (CISO) to the Head of Cyber Risk, opening the door for a convergence of fraud and cyber risk.

Despite these evolving challenges and risks in the financial services industry, the Aust Cyber report *Australia's Cyber Security Sector Competitiveness Plan* found that the financial services sector invests heavily in cyber security. Australia's financial services companies are the largest users of cyber security in the country and account for almost one-third of the nationwide security demand. The sector also invests $175 US (million) per US (trillion) of GDP more than the global average. Given Australia's competitive advantage in cyber investment in the sector, the Aust Cyber report also notes that the financial services sector can play a valuable role through investment in, and becoming an anchor customer for, Australia's cyber security start-ups.

Recognising our nation's strengths in this domain, we also recognise the expense associated with maintaining a resilient cyber security posture. Encouraging on-going investment in the reg-tech cyber

[6] *https://assets.kpmg/content/dam/kpmg/au/pdf/2019/securing-the-future-of-financial-services-australian-edition.pdf*

space will provide novel and lower cost mechanisms to secure information in both established and new financial service organisations.

Another key consideration is the ability for new market entrants to engage with established institutions and the burden of proof for cyber secure practices. Whilst necessary to ensure a sound and trusted ecosystem, having clearer guidelines and common practices will allow for new entrants to build to expectations rather than finding additional functionality needs to be built in to make their solutions compliant.

Recommendations:

That the Committee consider recommending:

- Measures that seek to promote Australia as a cyber-safe FinTech/RegTech hub given the strong investment the sector has made into cyber security compared to the global average.
- Incentives for the financial services sector to invest in cyber security start-ups, positioning Australia as a cyber hub.

National interest considerations

KPMG understands that the Committee is also interested in taking evidence in relation to national interest considerations relating to foreign capital investment and how the sensitivities around financial services and financial data can be managed and whether investment processes can be streamlined for trusted security partners.

The development of a robust FinTech and RegTech industry is critical to the future digital/automated economy, and needs specific consideration and/or policy support to enable its further development

While there is a strong market in Australia for some start-up capital, the access to offshore investors brings not only diversification of capital sources but also the ability for Australian FinTech and RegTech organisations to access the 'intellectual capital' of offshore investors.

The speed at which capital is raised in the FinTech/RegTech industry, and the nature of the investors, means that the standard provisions of the Foreign Investment Review Board (FIRB) for approvals, where required, is more likely than not to disadvantage certain investors and force the local industry to rely more on the limited pool of available capital in Australia. While there is the need for the appropriate safeguards for foreign investment in Australia, the following options could be considered in the context of a 'tiered' approach to approvals for foreign investors:

- Either no approval required for, or an expedited approval process for investors from, jurisdictions where the Australian government is actively encouraging collaboration in the FinTech/RegTech industry: for example, the UK and Singapore.
- Either no approval required for, or an expedited approval process for investors from, countries where the approval regime includes a high dollar threshold for foreign investment overall, or otherwise a dollar threshold test for investments into a FinTech/RegTech organisation: for example, the US.
- Distinguishing between a purely passive investor (e.g. no board seat, no access to consumer or other regulated data aside from corporate/shareholder reports required under the Corporations Act or ASX listing rules) and an active investor (e.g. actively involved in management or governance of the business, access to consumer or other regulated data and therefore may require a higher degree of scrutiny and approval for the investment).
- Either no approval required for, or an expedited approval process for investors from, Investors from jurisdictions on an 'expedited list', where the government is satisfied from a policy perspective that investors from that jurisdiction meet certain requirements, or otherwise a dollar threshold test for investments into a FinTech/RegTech organisation.

If the government wants some form of approval power, and with conditions, then it should consider a standard set of conditions to which an investor and an organisation can submit, and possibly have some level of independent assurance over. If these conditions are adopted by the investor and an organisation, then that would also be a way to expedite the approval on the part of the government under some form of streamlined arrangement.

In addition to FIRB approvals, the exposure draft of the Security Legislation Amendment (Critical Infrastructure) Bill 2020 seeks to expand the scope of "critical infrastructure" to some parts of the financial system. While this may be prudent in some cases, any extension of the critical infrastructure concept needs to consider the relatively small scale of most FinTech and RegTech organisations and the regulatory burden that this extension may create for little overall benefit. An alternative to including the entire financial services sector would be to utilise the FIRB provisions that gives the Treasurer a call-in power to assess an offshore investment in a FinTech/RegTech, where required.

Recommendations:

That the Committee consider recommending:

- A 'tiered' approach to approvals for foreign investors that would be dependent on whether the government was actively encouraging investment from a country, whether the investor was passive or active or whether approvals may be expediated if certain criteria is met.
- The careful consideration of alternatives rather than defining 'critical infrastructure' so broadly as to possibly capture some FinTech/RegTech organisations in the proposed changes to the Security Legislation Amendment (Critical Infrastructure) Bill 2020.

Talent Acquisition / retention:

KPMG understands that the Committee is seeking feedback on how to continue to enhance Australia's ability to attract and retain highly skilled workers in FinTech and related fields. As governments around the world look to drive growth and while borders are restricted due to COVID-19, the challenge of attracting talent is intensifying.

The visa programs established by the Department of Home Affairs go some way to facilitating investment in attracting and retaining innovative and exceptional talent to Australia (namely the Global Talent Scheme). Further, KPMG welcomed the Federal 2020-21 Budget’s commitment of $29.8 million over two years for a Global Business and Talent Attraction Taskforce to attract exceptional talent to Australia.

The number of participants in the Global Talent Scheme program has increased by three-fold for the 2020-2021 program year to 15,000 however while there are larger place allocations and an emphasis on the Global Talent Scheme, the program is still quite restrictive due to the following:

- The salary cap to access this program is quite high, currently set at AUD153,600 – this could be limiting for many potential FinTech/RegTech businesses
- The criteria associated with the concepts of distinguished talent might not be adaptable and flexible to the industries and candidates being targeted (i.e. in FinTech/RegTech, data science, MedTech, artificial intelligence, blockchain etc). For example, these concepts formed part of the previous, distinguished talent visa category and criteria within this program such as ‘distinguished’ and ‘international level’ of talent were difficult to interpret. The program would benefit from guidance for high-growth fields and the provision of flexible measures for these industries that would be supported by standard processes to assess and recognise overseas credentials through dedicated third-party organisation.
- The turnover requirement for the Global Talent Employer Sponsored (GTES) stream limits certain businesses from accessing this program / similarly the designated investment required for start-ups stream.
- The age threshold of 55 still exists under the independent stream which can be limiting if ‘an exceptional benefit’ to Australia cannot be shown.
- The Global Talent Scheme would also benefit from a further review to ensure that Australia is competitive with other jurisdictions, particularly Canada, Singapore and Hong Kong.

For instance, the special visa arrangements for Hong Kong nationals provides a longer visa term but does not provide any other concessions to skills and labour market testing criteria for current work visa subclasses. If the government wanted to attract a larger cohort of skilled migrants from Hong Kong a visa class that provided additional concessions could be effective in attracting FinTech / RegTech professionals.

Lastly, improving processing times for the Global Talent Scheme and the business innovation and investment visa categories so that they are adaptable and responsive to market changes and business requirements would greatly improve take-up. The Global Business and Talent Attraction Taskforce will hopefully go some way in streamlining pathways to permanent residency for exceptionally talented individuals and successful businesses interested in growing their success in Australia. However, the current lengthy processing times, program restrictions and lack of clarity are a disincentive to investors who want to start or acquire an interest in an Australian business.

Recommendations:

That the Committee consider recommending:

- Improvements to the Global Talent Scheme and Hong Kong visa class to ensure international competitiveness in a highly competitive global market including a review of salary caps, age thresholds, turnover requirements and key criteria.
- Include KPIs for processing times and accrediting specialist third parties to review visa eligibility so that visa categories are adaptable and responsive to market changes in the FinTech/RegTech sectors.

Key authors and contacts

Grant Wardell-Johnson
Lead Tax Partner, KPMG Economics and Tax Centre
gwardelljohn@kpmg.com.au
+61 2 9335 7128

Andy Hutt
Director KPMG Economics and Tax Centre
ahutt@kpmg.com.au
+61 2 9335 8655

Georgia King-Siem
Director, Accelerating Business Growth, Enterprise
gkingsiem@kpmg.com.au
+61 2 9335 8567

Brett Watson
Partner, Payments Advisory
bjwatson@kpmg.com.au
+61 2 9335 7987

Paula Gilardoni
Partner, KPMG Law
pgilardoni@kpmg.com.au
+61 2 9273 5005

Laszlo Peter
Head of Blockchain Services, Asia Pacific
laszlopeter@kpmg.com.au
+61 2 9455 9018

Gordon Archibald
National Lead, Cyber Security Services
garchibald@kpmg.com.au
+61 2 9346 5530

Noel Williams
Partner Financial Services Technology Risk
noelwilliams@kpmg.com.au
+61 3 9288 6014

Stuart Fuller
Head of Global Legal Services, KPMG International
stuartfuller@kpmg.com.au
+61 2 9458 1590

Belinda Wright
Partner, National Leader, Immigration Services
bwright3@kpmg.com.au
+61 2 9335 7031

Sophie Finemore
Associate Director, Regulatory Affairs
sfinemore@kpmg.com.au
+61 3 9288 6226

KPMG.com.au