



24 December 2019

Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: fintech.sen@aph.gov.au

Dear Senator

Senate Select Committee on Financial Technology and Regulatory Technology – Issues Paper

The Australian Banking Association (**ABA**) welcomes the opportunity to provide feedback on the Issues Paper of the Senate Select Committee (**Committee**) on Financial Technology (**FinTech**) and Regulatory Technology (**RegTech**). The ABA applauds the Committee's considered approach to inquiring into an increasingly important part of the Australian economy.

With the active participation of its members, the ABA provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services. The ABA works with government, regulators and other stakeholders to improve public awareness and understanding of the industry's contribution to the economy and to ensure Australia's banking customers continue to benefit from a stable, competitive and accessible banking industry.

The ABA supports many of the findings identified in the issues paper. The ABA agrees that this inquiry is not about big or small businesses or start-ups; it is about all Australian businesses being as innovative as possible to create the next wave of employment growth, creating economic opportunities and improving customer outcomes.

Australia's banks have a successful history of innovation and technology leadership and Australians have rapidly embraced these innovative digital offerings and products. Consequently, Australians now expect and demand banks innovate and compete on products and customer experience.

Reforms to promote competition and enhance consumer protection in a digital age

The ABA agrees that the identified five key factors of capital and funding, tax, skills and talent, culture and regulation are key factors that determine Australia's competitive position to attract and maintain investment in technology. However, the ABA respectfully requests the Committee to also consider how Australia should best manage data in the emerging digital economy.

Data management and the Australian 'Digital Economy'

The ABA requests the committee to examine how best to connect all data policy into a single national streamlined management strategy for Australia. The ABA envisions a comprehensive and co-ordinated top down national data strategy for Australia – a considered single approach to policy development for the 'Digital Economy' that balances both privacy and facilitates innovation. The Consumer Data Right (**CDR**) is a transformational Australian innovation that will empower consumers to utilise their own data, making more informed decisions about the financial products that best suit them and their families.

With the launch of Open Banking and the CDR in 2020, Australia is uniquely placed and we should now examine, refine and consolidate the regulatory responsibility for all relevant elements of data management and privacy in the digital economy that is currently split across multiple regulators and government departments.



Australian Banking Association

The ABA believes it is critical that a more effective, clear and accountable regulatory structure is established for such an important part of the Australian economy. Ultimately, a co-ordinated national data strategy should also be tasked with facilitating public and private sector collaboration by engaging with and solving those data issues as they emerge. A good example of this would be ensuring that the privacy regime that accompanies the CDR does not conflict with existing Australian Privacy Principles (**APPs**) such that incumbents and start-ups entering a market only have to comply with one clear set of privacy obligations thereby strengthening compliance, protecting consumers and also minimising regulatory costs and facilitating innovation.

Regulatory technology

The adoption of RegTech solutions is slow in Australia, due to a number of challenges. A recent Deloitte Report describes¹ the problem well:

The sheer volume and complexity of new and existing regulations have had the unintended consequence of encouraging financial service providers to focus on compliance rather than innovation. In parallel, firms have been cautious to innovate because of regulatory uncertainties underlying the development of new products and deployment of pioneering technology.

There is no easy or single solution to this problem. Anecdotally, the ABA understands that Australia is not currently perceived as an optimal market for regulatory technology innovations/start-ups. The perception is that this jurisdiction is seen as excessively regulated, with regulations that are overly complex and subject to frequent change. The nature of regulation for the Australian Financial Services sector means that the business conditions for enabling RegTech start-ups are not yet optimal. The ABA recommend that Treasury be explicitly tasked with responsibility for a growth strategy for RegTech. In addition, that Treasury be required to take a portfolio approach, guiding ASIC, APRA the RBA and others to make RegTech a viable proposition in the financial services sector.

'Write-access' for CDR data in Open Banking

The issues paper touches on the topic of altering the CDR regime from just 'read-access' to also include 'write-access'. The key to a successful launch of the CDR regime is for the ACCC to focus on getting non-major banks and FinTech participants up and running as soon as possible after the major banks. Only once the CDR, Open Banking and Open Energy regimes are operating efficiently and securely (beyond the initial pilot phases - with sufficient participants and products), should any changes be considered to the CDR. Any review of the CDR regime should be evidence based, systematic and in co-operation with industry participants and consumer advocates.

Simply put, a cost-benefit review of write-access should be undertaken by Government once the CDR is operating and sufficient time has elapsed to understand the costs, benefit, and most importantly, the risks of both 'read' and 'write' access to banking data. That review of the CDR should also include how an entities use of both 'read' and 'write' access would need to interact with obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* and the Australian Privacy Principles.

Conclusion

Thank you again for the opportunity to provide comments, the ABA looks forward to working with the Committee and other stakeholders on the opportunities this inquiry presents.

Yours faithfully

Aidan O'Shaughnessy
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¹ The Promise of Regulatory Technology, <https://www2.deloitte.com/content/dam/Deloitte/au/Documents/technology/lu-the-promise-regtech-27032017.pdf>