

The background of the entire page is a photograph of a city skyline at sunset. The sky is a mix of orange, pink, and blue. The city features several tall skyscrapers, some of which are illuminated with lights. A body of water in the foreground reflects the city and the sky. A semi-transparent teal rectangular box is overlaid on the left side of the image, containing the title and subtitle text.

# Australia as a Financial & Technology Centre Advisory Group (AFTCAG) Report

MAKING AUSTRALIA AN INTERNATIONALLY COMPETITIVE  
FINANCIAL CENTRE & ATTRACTING ASIA-PACIFIC BUSINESS  
HEADQUARTERS TO AUSTRALIA

January 2021

# Foreword

The Australia as a Financial & Technology Centre Advisory Group (AFTCAG)<sup>1</sup> was convened in August 2020 by Senator Andrew Bragg from a broad cross-section of senior executives and board directors in the financial services, Fintech, technology and related sectors to advise the Federal Government on immediate issues and opportunities in these sectors.

This first report of AFTCAG deals with two inter-related issues:

- (a) how to attract businesses to base their Asia-Pacific headquarters and/or other large regional business activities in Australia rather than elsewhere; and
- (b) how to make Australia a more globally competitive centre for Financial Services (and in particular for the export of financial and related services).

These questions have assumed particular urgency at a time of economic dislocation and change, where creating new jobs and economic activity is crucial, and in light of the decline in Australia's perceived competitiveness and continuing low level of financial services exports.

The members of AFTCAG (alphabetically by first name) at the date of this Report are as follows:

Member	Company
Alfonso Capito	Ernst & Young
Andrew Low (Chairman)	Australian British Chamber of Commerce
Antoinette Elias	Ernst & Young
Ben Heap	H2 Ventures
Dianne Challenor	Zip Money
Elana Rubin	Afterpay
Frank Kwok	Macquarie Group
Greg Cooper	Perpetual / T Corp
Greg O'Neill OAM	La Trobe Financial
Katherine McConnell	Brighte
Liz Hastilow	First Sentier Investors
Robert Bedwell	JP Morgan
Sam Hallinan	Nikko Asset Management
Victoria Allen	MinterEllison

It should be noted that the members participated in AFTCAG in their personal capacities and views expressed in this Report may or may not represent views of the organisation with which they work.

AFTCAG would also like to acknowledge the generous contribution of Ashurst lawyers and of Ernst & Young in assisting with the drafting of the Report and the very helpful input provided by industry groups and past and present Australian expatriates in Asia to ensure identification of the key issues and highest-impact solutions.

<sup>1</sup> Also referred to as "The Committee" in the Report.

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# Executive Summary

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# 1. Executive Summary

## 1.1 Purpose

Attracting new business activities and talent to Australia is a crucial element of a sustained economic recovery. The attraction and relocation of significant Asia-Pacific (**AsiaPac**) regional businesses to Australia will create well-paid and long-term jobs for Australians, both directly and in sectors that support them.

A particular focus of this Report is the competitiveness of Australia as a place to base regional financial services and Fintech businesses. Despite Australia's sophistication in this sector, global studies indicate that our relative competitiveness has fallen significantly since the Johnson Report<sup>2</sup> on the issue in 2009 (from just inside the Top 10 to outside the Top 20) and that Australian financial services exports remain negligible, despite the large number of well-paid jobs that could be created for Australians to service the Asia time zone.

The benefits of our Recommendations would also be felt beyond financial services in many other sectors which could run their headquarters from Australia. These could include industries as diverse as Healthcare, Pharmaceuticals, Media, Fast-Moving Consumer Goods, Technology, Arbitration and other services.

This Report draws on the experience of the Committee (which comprises individuals from a diverse range of financial and tech organisations, both large and small) and on other input from expatriate and Australian-based executives and industry bodies.

The Recommendations are designed to be simple and actionable so they can be implemented quickly to start to create jobs from 2021.

## 1.2 Structure

The first section of the Report notes that timing is currently especially propitious for Australia to be offering a more attractive environment for AsiaPac headquarters. Reasons for this include the expected movement of some AsiaPac regional businesses out of Hong Kong, the diminishing appeal of offshore centres as global tax rules are tightened, tighter visa regulations in Singapore and a post-COVID reassessment by many firms as to where their business activities can realistically be based and where people wish to live.

The second section of the Report summarises the key conclusion from submissions, experience of Committee members and quantitative benchmarking. This is that:

- (a) Australia has many attractions as a place to base regional activities, including quality of life, our reliable legal system and Institutions and the depth of available talent; but
- (b) these advantages are offset by concerns about tax inefficiency, regulatory complexity and problems with the relocation process itself.

The Recommendation sections of the Report identify straightforward and executable measures to remove the barriers that stop people moving job-creating businesses to Australia.

It is important to note that we do not need to be the lowest tax jurisdiction or the most attractive in every measure; we simply need to rebalance the scales sufficiently to prompt businesses and business leaders to "take another look" at Australia.

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<sup>2</sup> Australian Financial Centre Forum 2009, *Australia as a Financial Centre – Building on Our Strengths*, Australia Financial Centre Forum <<http://www.fex.com.au/media/AFCF.pdf>>. Referred to herein as the "Johnson Report".

## 1.3 Recommendations

The Recommendations are discussed in five categories:

- (a) removing existing barriers to businesses growing in Australia;
- (b) attracting business activities to move to Australia from elsewhere;
- (c) attracting the founders and managers of global and regional businesses to base themselves in Australia;
- (d) reducing regulatory complexity and establishing investment promotion as a balance to investor protection; and
- (e) telling our story (the advantages of Australia) better to the world.

It is important to note that the net impact of these Recommendations will be to increase Government revenue, rather than reduce it. Concessions are focused on incremental **new** business activities and they are **temporary** and **targeted**. We are therefore confident that full implementation of these Recommendations will also improve the medium-term Budget bottom line.

### REMOVE BARRIERS TO GROWING IN AUSTRALIA

The Committee notes recent Government initiatives to proactively encourage job-creating business activity in Australia. In our view, the best way to do so is to remove the barriers and complexities that stop this occurring. Removing broad impediments to business and reducing complexity is, in our view, a preferable way to encourage more investment rather than subsidising specific sectors or activities.

While a lower and simpler corporate tax regime would be the optimal way to attract a broad base of foreign investment, we note that prior proposals in this regard have not received sufficient support to be legislated and so we have focused the first set of Recommendations in this Report on more targeted simplification and "scraping off barnacles" that would have maximum impact at low or no cost to the Budget.

#### 1. Complete the Corporate Collective Investment Vehicle (CCIV) regime, with particular reference to matching the best features of the Singapore VCC structure.

The Johnson Report recommended establishing a broader range of collective investment vehicles in Australia as many foreign investors are not comfortable with the traditional unit trust structure used in Australia, and a corporate vehicle is better suited to many types of funds. This has still not occurred eleven years later, despite widespread agreement that it makes sense. By contrast, in 2019 Singapore developed and then rapidly implemented the Singapore Variable Capital Company which has already attracted substantial movement of funds to Singapore from other centres.

The Committee believes that a rapid implementation of a regime similar to the Singaporean model may be the preferred way to proceed as potential fund investors and providers already understand this structure and can therefore simply focus on the other reasons that an Australian domicile might be preferred. Failing this, the current incomplete CCIV regime should be urgently upgraded to "world's best practice" and implemented.

#### 2. Amend the Investment Manager Regime rules to deal with issues in relation to (i) residence of foreign funds (ii) treatment of debt securities and (iii) treatment of fund manager interests in funds.

There has been a bipartisan agreement in principle for many years that *foreign investors* in funds that invest in *foreign assets* should not be taxed in Australia merely because the fund manager is Australian or the vehicle through which they are investing is an Australian



entity. However, the current "conduit rules" for funds management are considered to be too complex and ineffective and many funds are therefore set up in Singapore and other jurisdictions to avoid the risk of inadvertent exposure to Australian tax. This drives the associated professional services jobs overseas too.

This Recommendation would remove the residual barriers to managing "foreign money for foreign assets" by Australian managers by "scraping off barnacles" from the Investment Manager Regime.

**3. Have no withholding tax apply to funds issued under the Asia Region Funds Passport program.**

The Asia Region Funds Passport currently includes Australia, Japan, New Zealand, South Korea and Thailand, and allows funds registered in one country to be distributed to retail investors in another Passport country. The biggest opportunity for Australia is for Australian-managed funds to sell into the massive Japanese retail market. However, for as long as withholding tax is paid by a fund domiciled in Australia but is not paid by an identical fund domiciled in Singapore or Hong Kong, any Australian-managed fund will be unable to compete. This reduces employment and corporate and personal tax revenue in Australia.

The Committee recommends that withholding tax not be payable on funds issued under the Asia Region Funds Passport as this will "level the playing field" and encourage such funds to be based in Australia, rather than overseas.

**4. Eliminate interest withholding tax on borrowings by financial institutions based in Australia.**

Australia currently charges a withholding tax on interest paid to foreigners who lend into Australia. This is a complex and inefficient tax for which there are many exemptions. It raises very little revenue and discourages a lot of business activity. Many companies,<sup>3</sup> particularly those involved in financial services who frequently need to move money between jurisdictions for their business, have relocated Treasury and other operations to Singapore and other jurisdictions so that they do not have to deal with the uncertainties around withholding tax.

We note that the Johnson Report and the Henry Tax Review<sup>4</sup> both also recommended the abolition of such withholding tax in view of its inefficiency and negative impact.

**5. Introduce a Technology Export Royalty (TER) patent box scheme to concessionally tax royalties on IP that are received by companies from offshore.**

As outlined in the Government's Patent box policies report<sup>5</sup>, an issue faced by intellectual property (IP) driven companies, including Fintech and other tech and medical businesses, is that when they export their intellectual property internationally, they pay the full 30% corporate tax on the royalties from licensing the IP. This is in contrast to jurisdictions like Singapore and the United Kingdom, which provide for concessional tax rates of 5%-10% on income associated with patents and other forms of intellectual property, and in practice

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<sup>3</sup> We use the terms "company" and "companies" generically throughout this report. Where the context permits, it includes other forms of business or investment vehicles.

<sup>4</sup> Commonwealth of Australia 2009, *Australia's Future Tax System Review Final Report*, Commonwealth of Australia, <<https://treasury.gov.au/review/the-australias-future-tax-system-review/final-report>>. Referred to in the Report as "Henry Tax Review".

<sup>5</sup> Australian Government, Department of Industry Innovation and Science, *Patent Box Policies 2015*, <<https://www.industry.gov.au/data-and-publications/patent-box-policies>>.



leads to companies moving Australian IP to other countries once they start to become successful.

The Committee recommends that the Government introduce a concessional TER that would tax the royalty paid to an Australian entity by an offshore party at 12.5% rather than 30%. There would be an additional requirement that at least 5 staff are employed in Australia by the entity to which the Royalty is being paid. The cost to the Australian Budget is expected to be negligible as such royalties will likely be paid to a non-Australian entity if the regime was not in place and we expect a TER regime to prompt fewer companies to move IP offshore as they grow and for some currently offshore companies to be more likely to elect to set up in Australia. By keeping IP in Australia, we not only derive tax revenue that we would not otherwise derive, but we are more likely to keep the headquarters of the company and supporting services in Australia as well.

### **ATTRACTING REGIONAL & GLOBAL BUSINESSES TO MOVE TO AUSTRALIA**

The Committee notes recent Government initiatives to proactively encourage job-creating businesses to move to Australia, including the appointment of the Prime Minister's Special Envoy for Global Business and Talent Attraction to "pitch" for such companies. Our view is that the following Recommendations would complement this focus and make a meaningful difference to the propensity of significant and profitable businesses to move their operations to Australia.

#### **6. Establish an Incremental Business Activity Rate (IBAR) regime whereby companies establishing a "Qualifying Business" in Australia would receive a tax rebate for up to 7 years on profit from these activities.**

The Rebate would be calibrated so that the effective applicable tax rate is 12.5% and no other special allowances such as the OBU concession are available on IBAR income. While the headline rate of corporate tax in Singapore and Hong Kong is 17% and 16.5% respectively, these jurisdictions only tax domestically sourced income and provide a range of other concessions that reduce the effective rate in most cases to below single digits.

The IBAR design features will ensure that the regime applies to genuinely incremental profit and therefore should not give rise to a net cost to revenue due to:

- (i) capping of the amount of the concession at A\$10 million per entity;
- (ii) the fact that the concession only applies to genuinely incremental business activities; and
- (iii) the additional consequential tax revenues arising from incremental increases in employment (including PAYG on salaries and payroll tax).

The Committee believes that the IBAR will encourage global financial institutions and other companies to reconsider Australia as the best location for AsiaPac business that can be run from any part of the Asia time zone (including but not limited to regional custodial, foreign exchange, asset management and treasury operations). By removing the tax disadvantage for a meaningful period of time, companies are able to focus on the other advantages of an Australian location.

**7. ASIC to fast-track an AFS licence for any business that already has an SFC, FCA or MAS licence for the same activities (within 2 months of application unless unsuitable).**

It is currently a slow process for financial services businesses that have been operating, without any issues, in other countries to get licensed in Australia if they wish to open a business or move a headquarters to Australia. This deters, for instance, funds operating in Hong Kong from moving their operations to Australia.

The Committee believes that businesses that are already licensed for substantively the same activity by a reputable regulator in a common-law market very similar to Australia (starting with the UK, Singapore and Hong Kong) should, if they have had the licence for at least 3 years with no sanction or investigation, be automatically licensed for wholesale activities (not retail) in Australia within 2 months unless ASIC determines a specific reason that they should not be licensed here.

**8. Establish a Significant Investor Panel within the ATO that can provide rapid rulings and decisions on issues associated with making new investment of greater than A\$100 million in Australia.**

There was feedback from a number of parties that the process of relocating a business to Australia is complex and has become more so through the interaction of a more onerous Foreign Investment Review Board process and their interaction with the ATO. The timeframe and risk associated with getting rulings from the ATO is a disincentive for people to consider moving big operations to Australia. The Committee recommends that the ATO establish a Significant Investor Panel, which could be modelled on the Part IVA Panel with representatives of both the ATO and external professionals and a defined time frame in which a decision is made.

## **ATTRACTING FOUNDERS & TALENT TO AUSTRALIA**

A crucial key to more job-creating business activity in Australia is for business founders and senior managers of large globally active companies to want to be based here. If Australia can attract the best entrepreneurs and skilled talent then they will employ people and use local services, with a multiplier effect on business activity overall. Growth businesses, particularly in the new economy, also have a need for people with particular technology skills that are not always available in Australia. Once attracted to Australia, such people also educate younger Australians in these skills.

Attracting the right people to Australia is therefore one of the most important drivers for attracting business and creating jobs.

**9. Introduce a Days-in Days-out (DIDO) system for taxing senior staff and entrepreneurs running Regional or Global businesses that employ >5 people in Australia.**

Many countries (including the United Kingdom, Singapore, Malaysia and Thailand) have a pro-rata system of tax for people who travel frequently between different countries to avoid the situation where tax is applied on 100% of earnings when the person is not in their primary location for much of the year and is therefore not using the social services that Government provides in respect of that time. Being competitive with such regimes is critical to drive the substantial relocation of job-creating businesses whose founders and senior managers can be based anywhere in the AsiaPac region.

This DIDO system could initially be implemented for Temporary Visa Holders to tightly target the impact to people who would demonstrably not otherwise come to Australia. We recommend that it subsequently (from 2024) be given broader application to also facilitate

the return of job-creating expatriates who have not been an Australian Tax Resident for at least 5 tax years prior to the year in which the DIDO system is able to be applied.

**10. Amend the Significant Investor Visa (SIV) regime to simplify and provide greater focus on job-creation.**

Changes to the SIV regime in 2015 mandated quite specific requirements that applicants invest:

- (i) at least A\$500,000 in venture capital and growth private equity funds which invest in start-ups and small private companies;
- (ii) at least A\$1.5 million in approved managed funds. The managed funds must invest in emerging companies; and
- (iii) a "balancing investment" of at least A\$3 million in managed funds.

The Committee proposes that the Government henceforth be less prescriptive about what the money is invested in (but still exclude real property) and instead require that applicants demonstrate a plan to create at least 5 new jobs in Australia and that they have a basic level of English proficiency. There should also be protections to ensure that funds are only invested in directly-managed and AFS-regulated funds of scale that are "widely held" and that investors cannot borrow against these investments to avoid "round tripping".

**BETTER BALANCE OF REGULATION AND ENCOURAGEMENT FOR INVESTMENT**

This set of Recommendations is designed to reduce the regulatory complexity that discourages business from coming to Australia when it can be based in a simpler jurisdiction.

The Recommendations do not weaken investor protection and system stability (indeed these are positive attractions for businesses moving to Australia) but would establish a complementary focus on also facilitating investment and promoting international competitiveness, as previously recommended in the 2009 Johnson Report but still not yet implemented.

There is an overall perception in financial markets that Australian regulation is structurally sound but is "too complicated" and "too slow to respond" and many regional and global activities are not based here as a consequence.

**11. Establish a Sub-Committee of the Council of Financial Regulators (CFR) or Financial Regulator Assessment Authority (FRAA), with private sector representation, that will promote investment/competitiveness and balance the existing focus, which is solely on compliance and investor-protection.**

This Sub-Committee would include Treasury, ATO, ASIC and APRA representatives as well as industry practitioners.

Its mandate would be to:

- (i) monitor global best practice and the international competitiveness of Australia vs other jurisdictions;
- (ii) make proposals to financial institutions to make significant investments in Australia; and
- (iii) recommend changes to legislation and rules to make Australia a more attractive destination for investment.

The Sub-Committee of the CFR or FRAA would be similar in focus to the Financial Sector Taskforce recommended by the Johnson Report but also draw on more recent experience in the United Kingdom and Singapore which are considered to be world's best practice in responsiveness and adaptability to changes in the market (and therefore attract the



highest proportion of financial services exports among financial centres globally). The City of London and Monetary Authority of Singapore each operate high-quality investment promotion functions, that supplement and complement the regulation of the financial services sector and other competing centres like Tokyo and Seoul are also now doing so.

**12. The Sub-Committee of the CFR or FRAA to provide an annual report to Parliament that reviews existing rules for the sector and recommends how to simplify and adapt to changes in dynamic markets.**

There is currently no process whereby existing legislation and regulations can be reviewed to ensure that they remain relevant and reflect changes in the market. Much of the framework for investment structures, regulation and practice is therefore up to a decade out of date (including as to the increase in Fintech and digitisation).

**13. Adopt "Bias to Yes" and "Bias to Competition" as over-riding principles for ASIC, APRA, etc. when regulating Fintech, RegTech and other Tech.**

The natural (and understandable) inclination of regulators is to err on the side of being over-cautious. It is important for a country trying to encourage dynamic and innovative activity in new parts of the technology sector that a clear "bias to yes" and culture of quick decision-making is established as a counterweight to this tendency. A slow and cumbersome approach to regulation will result in companies (both local and foreign) avoiding Australia.

**14. Revisit the proposed abolishment of the licensing exemption for foreign financial service providers (FFSP) that are licensed in comparable jurisdictions, where the services are only being provided to, or trades done with, Professional Investors.**

ASIC has previously allowed a FFSP to operate in Australia without an Australian AFS licence, provided they are regulated under an overseas regulatory regime considered to be sufficiently equivalent to Australia's regime. However, it is currently proposed from April 2022 such FFSPs would require an Australian foreign AFS licence which adds additional compliance, costs and process for application.

It is therefore recommended that this change be revisited for any FFSP that is interacting only with Professional Investors (e.g. those with more than A\$10 million in personal assets or that are already licensed themselves) that do not require extra protection. The Committee also recommends that Australia seek equivalent mutual recognition exemptions from other jurisdictions, including through the Australia-UK and Australia-Europe Free Trade Agreements and via negotiation with the new US administration.

## **TELLING THE STORY**

The Australian financial services sector has historically been very domestically focused and has not promoted itself effectively globally and in our region. This is in contrast to countries with a very high level of financial services exports who are genuine regional and global financial centres, which regularly promote and market their attractiveness. The Committee has noted that Australia has, for example, not appeared on many lists of alternate financial centres being presented to companies in Hong Kong that are considering moving, in part due to outdated and incomplete perceptions of Australia.

**15. Create a Financial Services Taskforce within Austrade, including revolving private sector representatives, that conducts regular virtual and in-person roadshows to promote the attractions of Australia as a regional headquarters and global financial centre.**

The Committee believes that the implementation of the other Recommendations in this Report, together with Australia's success in dealing with the COVID-19 pandemic, represents a once-in-a-generation opportunity to revise the narrative about Australia as a

global financial centre, for a joint Austrade/Industry team to roadshow the attractions of Australia, both new and old, and to update perceptions and make Australia a real choice for investment. The first such Roadshow (likely virtual) should take place in early 2021.

The Committee believes that all of the Recommendations in this Report should attract bipartisan support and rapid implementation.

They are designed to be simple and to provide a substantial positive impact on job-creation and will also assist the medium-term Federal Budget bottom line.

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# Opportunity



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## 2. Opportunity

### 2.1 Rationale and Timing of this Report

There are immediate reasons for the Australian Government to adopt a more proactive approach to encourage businesses to base their AsiaPac headquarters in Australia, and to make it more attractive for businesses to move substantial business lines to Australia. These include:

- (a) To facilitate a strong economic recovery, Australia urgently needs to replace businesses and jobs lost because of the COVID-19 pandemic and changes in the China trading relationship.
- (b) Many companies (particularly in Financial Services, Tech and Media) in Hong Kong are looking to move substantial parts of their business out of Hong Kong as a result of the new National Security Law which removes much of the special legal status and protections that previously existed in the Hong Kong Special Administration Region. Most of these decisions about alternative location will be made in the next 6-12 months. In 2018, 263,000 people were employed in the financial services industry in Hong Kong, representing 6.8% of Hong Kong's total employment.<sup>6</sup>
- (c) Many businesses and individuals are reconsidering work and travel patterns in response to the COVID-19 pandemic, and people have realised that they have more choice of where they live than they may have previously believed. These trends make Australia relatively more attractive for a business' AsiaPac headquarters. Australia is perceived as offering a great quality of life, healthcare and security, while greater use of video conferencing lessens the impact of the perceived geographical disadvantages of Australia (like length of flight time to other cities in Asia).
- (d) The COVID-19 pandemic has also put more focus on security of supply and on stability. Australian-owned companies are likely to be more attracted to re-shoring activities that were previously done in other parts of the world. European and American companies may also see greater attraction in basing their AsiaPac operations in Australia in this environment, particularly if it is now relatively more important to be in essentially the same time zone (to conduct business via video conference) rather than needing to be physically proximate.
- (e) There is a continuing global crackdown on offshore financial centres, particularly due to their limited transparency and tax risk. Financial centres like Australia, which has a well-regarded and transparent regulatory regime, should benefit from the lessening appeal and viability of offshore financial centres for global firms.

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<sup>6</sup> Census and Statistics Department 2020, *Table 191: Percentage share of employment in respect of the Four Key Industries in Total Employment*, Census and Statistics Department  
<<https://www.censtatd.gov.hk/hkstat/sub/sp80.jsp?tableID=191&ID=0&productType=8>>.

## 2.2 Australia as the Next Global Financial Centre

### 2.2.1 Attractive Features of Australia

Australia offers a number of advantages as a financial centre.

#### Location

Being part of the growing AsiaPac region, Australia has a favourable geography and is well connected to many Asian financial centres. Australia also shares a common time zone with most of Asia. For example, Sydney and Melbourne's GMT+11 time zone (AEDT) differs only 3 hours from the GMT+8 time zone used in Hong Kong, Singapore and China, and differs by 2 hours from the GMT+9 time zone used in Japan and Korea. In contrast, European and USA time zones are 6 to 17 hours behind Asian time zones.

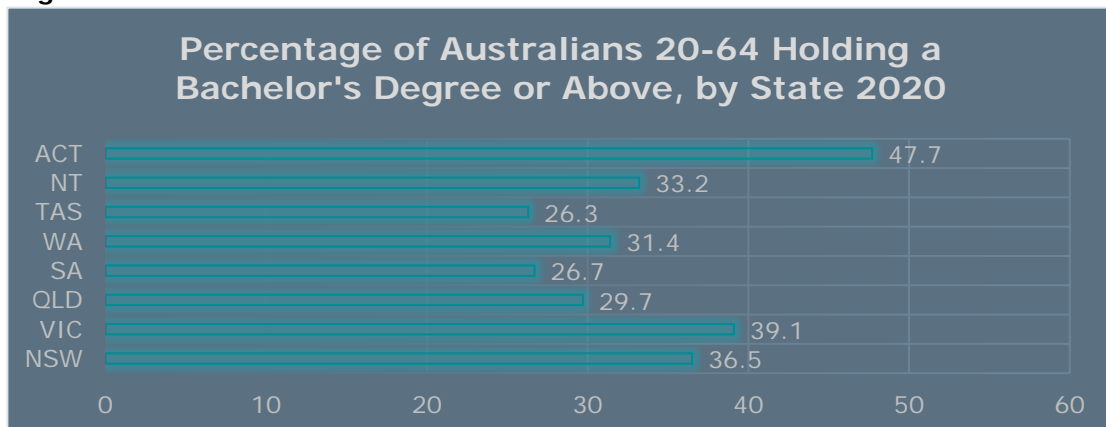
With more people working remotely, restrictions on international travel and increased digital connectivity between financial centres as a result of COVID-19, meetings in person have decreased and it is becoming more common for business meetings to be conducted over video conferencing platforms. For Australia, while it is physically further from major Asian markets compared to some other countries, the new working trend combined with Australia's similar time zone and well developed connection with Asian financial centres, increases the attractiveness of doing business in Australia, particularly for businesses in Asia.

#### Talent

Australia has a highly educated and talented workforce. In 2020, 35% (5.3 million) of Australians aged 20 to 64 held a Bachelor's degree or above and 69% (10.4 million) of Australians aged 20 to 64 held a non-school qualification (a certificate, diploma or degree).<sup>7</sup>

Figure 1 shows the percentage of Australians between 20 and 64 years old holding a Bachelor's degree or above, by state. The Australian Capital Territory (47.7%), Victoria (39.1%) and New South Wales (36.5%) have the highest proportion of working age Australians holding a Bachelor's degree or above.<sup>8</sup>

**Figure 1**



<sup>7</sup> Australian Bureau of Statistics 2020, *Education and Work – Australia*, Australian Bureau of Statistics <<https://www.abs.gov.au/statistics/people/education/education-and-work-australia/may-2020>>.

<sup>8</sup> Australian Bureau of Statistics 2020, *Education and Work – Australia*, Australian Bureau of Statistics <<https://www.abs.gov.au/statistics/people/education/education-and-work-australia/may-2020>>.



In respect of Australians currently studying, in May 2020, 13.5% of Australians aged 15-64 were enrolled in obtaining a non-school qualification with 40% studying for Bachelor's degrees and 18% doing post-graduate studies.<sup>9</sup>

The percentage of population over 25 years old that hold a Bachelor's degree or equivalent in France, Spain and Germany are 18%, 21.9% and 25.1% respectively.<sup>10</sup> Australia also has a greater proportion of those with a Bachelor's degree or equivalent compared to most countries in the AsiaPac region. These include Indonesia (9.4%), Philippines (16%), Thailand (14.9%), Japan (19.9%), South Korea (28.7%) and New Zealand (28.1%).<sup>11</sup>

#### Low Fees<sup>12</sup>

Australia charges one of the lowest fees on mutual managed funds in the world. Morningstar's global investor experience study on fees and expenses in 2019 gave Australia the highest grade on fees and expenses.<sup>13</sup> Australia charges asset-weighted medians of 0.90%, 1.23% and 0.60% respectively for Australian-based allocation (or multi-sector), equity and fixed-income funds.<sup>14</sup>

Australia outperformed 23 other countries, including Singapore, Hong Kong and the United Kingdom, that received either a grade of average or below average.

#### Quality of Life

Australia offers excellent quality of life when compared to other countries. According to the OECD's Better Life Index, which measures wellbeing in a country, Australia ranks above average in civic engagement, health, environmental quality, income and wealth, education and skills, housing, safety, life satisfaction, jobs and quality of social support networks.<sup>15</sup> Australia has also consistently performed well on the United Nations' Human Development Index (HDI), which measures a country's economic and social development. In 2019, Australia received a HDI value of 0.938 and was ranked 6th in the world.<sup>16</sup>

#### Rule of Law

Australia has a strong legal system underpinned by the rule of law. According to the World Bank's Worldwide Government Indicators, Australia had a percentile rank of 93.269 for rule of law in 2019, being one of the highest in the world.<sup>17</sup> Similarly, Australia was ranked 11th out of 128 countries globally and 2nd out of 15 countries regionally in the World Justice Project's

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<sup>9</sup> Australian Bureau of Statistics 2020, *Education and Work, Australia*, Australian Bureau of Statistics <<https://www.abs.gov.au/statistics/people/education/education-and-work-australia/may-2020>>.

<sup>10</sup> World Bank 2019, *Educational attainment, at least Bachelor's or equivalent, population 25+, total (%) (cumulative)*, World Bank <<https://data.worldbank.org/indicator/SE.TER.CUAT.BA.ZS?end=2019&start=2019&view=bar>>.

<sup>11</sup> World Bank 2019, *Educational attainment, at least Bachelor's or equivalent, population 25+, total (%) (cumulative)*, World Bank <<https://data.worldbank.org/indicator/SE.TER.CUAT.BA.ZS?end=2019&start=2019&view=bar>>.

<sup>12</sup> Fees pertain to Australian mutual funds, separate to the cost of Australian superannuation funds.

<sup>13</sup> Morningstar, *Global Investor Experience Study: Fees and Expenses 2019*, Morningstar, p. 10 <<https://www.morningstar.com/lp/global-fund-investor-experience>>.

<sup>14</sup> Morningstar, *Global Investor Experience Study: Fees and Expenses 2019*, Morningstar, p. 20 <<https://www.morningstar.com/lp/global-fund-investor-experience>>.

<sup>15</sup> Organisation for Economic Co-operation and Development 2020, *Australia*, OECD Better Life Index <<http://www.oecdbetterlifeindex.org/countries/australia/>>.

<sup>16</sup> United Nations Development Programme 2019, *2019 Human Development Index Ranking*, United Nations Development Programme <<http://hdr.undp.org/en/content/2019-human-development-index-ranking>>.

<sup>17</sup> World Bank 2020, *World Governance Indicators*, World Bank <<http://info.worldbank.org/governance/wgi/Home/Reports>>.

Rule of Law Index.<sup>18</sup> By having a strong rule of law, individuals, businesses and the government follow the law and are held accountable by the law. The rule of law also protects the rights of individuals and businesses and allows their rights to be enforced before an independent and impartial judiciary. Australia's strong rule of law therefore provides a safe environment to conduct business.

#### Political Stability and Low Corruption

Australia has a stable political environment with low corruption. In 2019, the World Bank's Worldwide Governance Indicators assigned Australia a percentile rank of 88.571 out of 100 for political stability and absence of violence, and 94.231 out of 100 for control of corruption.<sup>19</sup> In the 2019 Corruption Perception Index, Australia scored 77 out of 100 (0 being highly corrupt and 100 being very clean) and was ranked 12th out of 198 countries.<sup>20</sup> This reinforces that Australia has one of the highest levels of political stability and lowest levels of corruption in the world.

## 2.3 How Australia Competes as a Financial Centre

### 2.3.1 Prospects of Competing Financial Centres

This part of the Report will focus particularly on the financial services sector and Australia's competitiveness as a place in which to base such business activities. While the Recommendations in this Report are mostly not sector specific, the financial services and Fintech sectors have been a particular focus because they are sectors that:

- (a) employ a large number of people;
- (b) contribute significantly towards tax revenue; and
- (c) are relatively mobile (so it is comparatively easy to both attract but also lose this investment).

Attracting business from these sectors to be based in Australia therefore has a substantial impact on our national prosperity.

As outlined below, the perceived competitiveness of Australia as a financial centre has fallen since the last report that comprehensively addressed this issue (the Johnson Report in 2009). Many of the recommendations of that Report were either not implemented or only partially implemented. The rest of the world has also continued to become more competitive and markets have evolved in the 11 years since the Johnson Report was delivered.

The deteriorating competitiveness of Australia's major financial centres, which can be seen in the analysis below, has been somewhat hidden by the growth of the domestic financial sector, particularly through the vast amounts paid into superannuation. Financial services in Australia is now a very domestic business and we have not taken advantage of the size and sophistication of our skills base to build meaningful Financial Sector exports or host regional AsiaPac activities in this sector.

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<sup>18</sup> World Justice Project 2020, *WJP Rule of Law Index - Australia*, World Justice Project <<https://worldjusticeproject.org/rule-of-law-index/country/Australia>>.

<sup>19</sup> World Bank 2020, *World Governance Indicators*, World Bank <<http://info.worldbank.org/governance/wgi/Home/Reports>>. Percentile Rank indicates rank of country among other countries in the world. 0 corresponds to the lowest rank and 100 corresponds to the highest rank.

<sup>20</sup> Transparency International 2019, *Corruption Perception Index*, Transparency International <<https://www.transparency.org/en/cpi/2019/results>>.

### 2.3.2 Financial Centre Ranking

The Global Financial Centre Index (**GFCI**) produced by Z/Yen institute, a City of London commercial think tank in collaboration with China Development Institute, measures and rates the competitiveness and attractiveness of financial centres worldwide through a combination of two separate sources of data – instrumental factors and financial centre assessments.<sup>21</sup>

- (a) The instrumental factors use a number of existing indices from third parties including the World Bank, the Economist Intelligence Unit, the OECD and the UN to provide objective evidence.
- (b) The financial centre assessments provide subjective input, comprising responses from senior industry figures from different countries to an online questionnaire.

The GFCI 28 was published in September 2020 and used 138 instrumental factors and 54,509 financial centre assessments from 8,549 responses to produce each financial centre's profiles, ratings and rankings.<sup>22</sup>

#### 2.3.2.1 World Ranking

Figure 2 provides a map of the top financial centres from the GFCI 28.<sup>23</sup> Australia's financial centres, Sydney and Melbourne, were ranked 32nd and 27th respectively. New York was 1st place in the index followed by London in 2nd place. Within the Top 10 financial centres, 6 are located in the AsiaPac region.

Compared to financial centres in the AsiaPac region, Sydney and Melbourne rank behind Shanghai (3rd), Tokyo (4th), Singapore (5th), Beijing (7th), Shenzhen (9th), Guangzhou (21st) and Seoul (25th).

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<sup>21</sup> Z/Yen 2020, *The Global Financial Centres Index*, Z/Yen <<https://www.longfinance.net/programmes/financial-centre-futures/global-financial-centres-index/>>.

<sup>22</sup> Wardle, M & Mainelli, M 2020, *The Global Financial Centres Index 28 – September 2020*, Z/Yen, p. 3 <<https://www.longfinance.net/publications/long-finance-reports/global-financial-centres-index-28/>> ('GFCI 28').

<sup>23</sup> *GFCI 28*, p. 4.

Figure 2

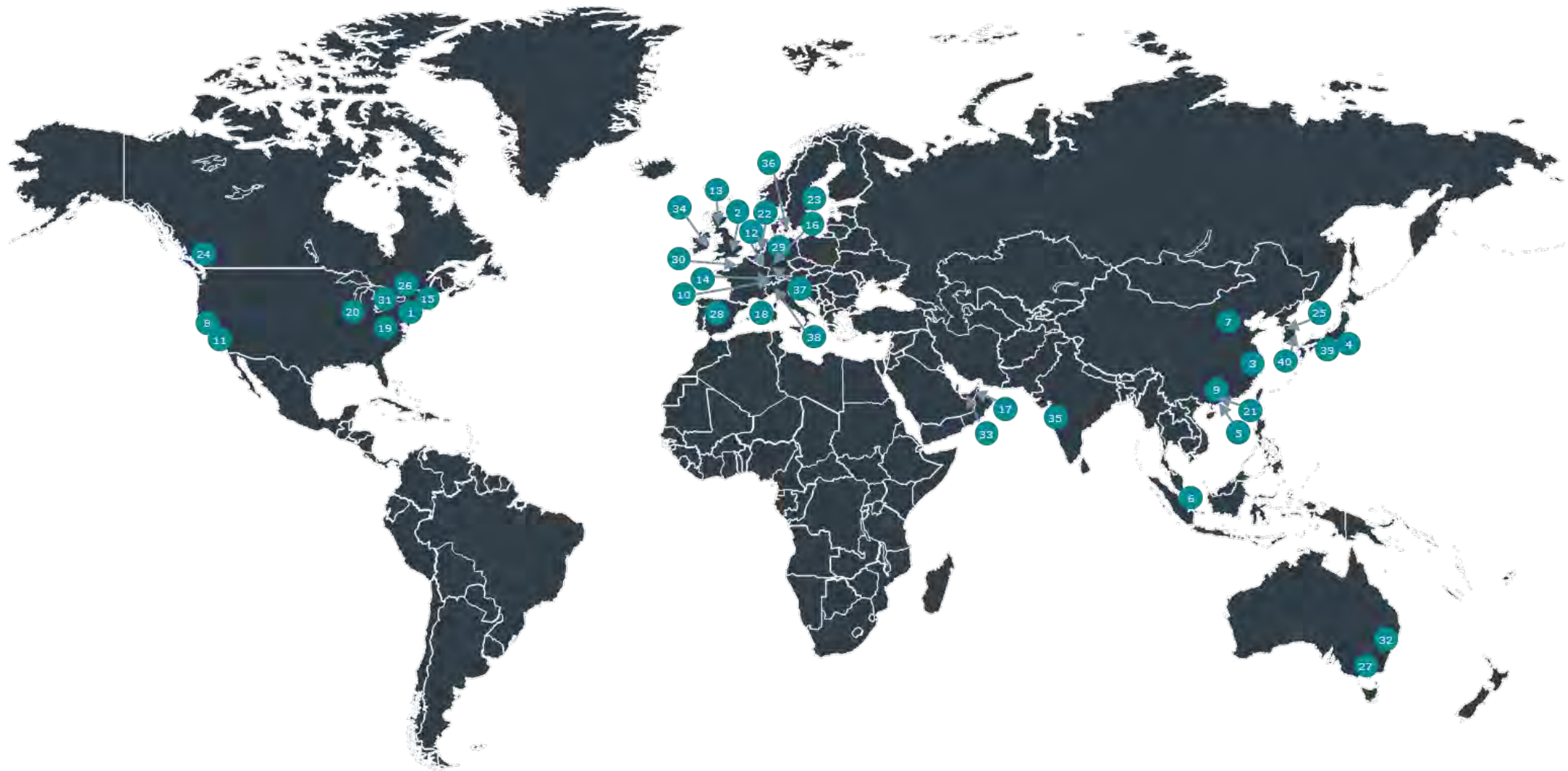




Figure 3

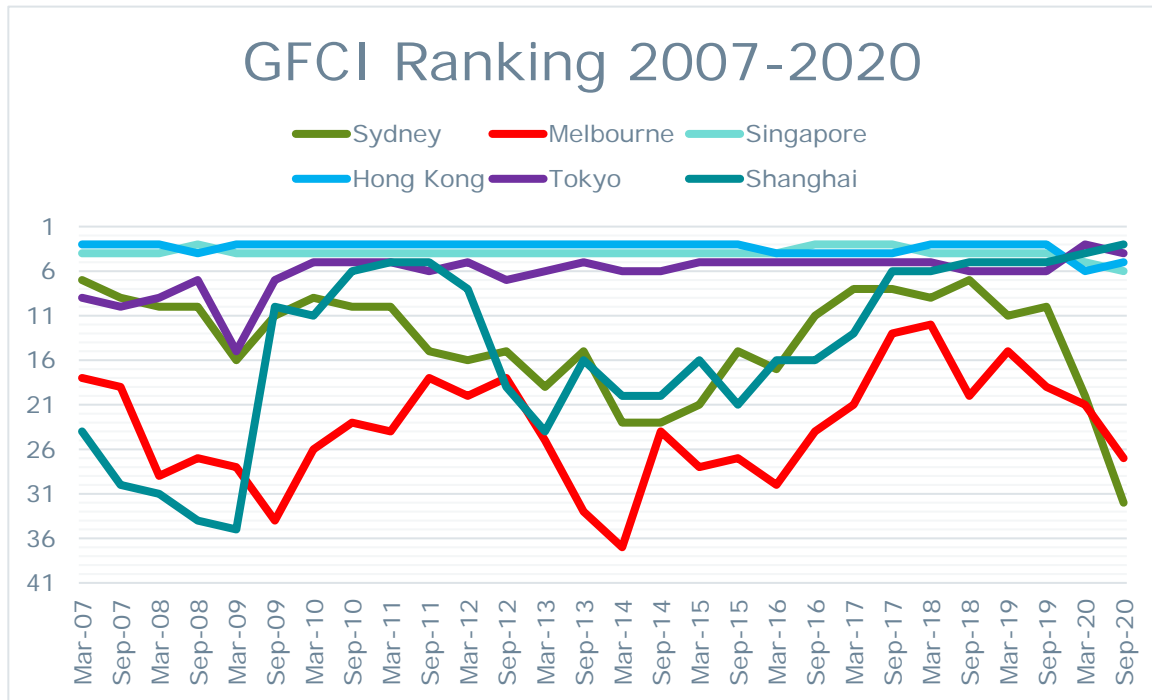


Figure 3 compares Sydney and Melbourne's GFCI rankings with Singapore, Hong Kong, Tokyo and Shanghai between 2007 and 2020.<sup>24</sup> Between March 2007 and March 2011, Sydney's rank was mostly in the Top 10. Sydney's rank then declined from September 2011 to 2016 and was between 15th and 23rd before improving again from September 2016 to September 2019 where it was ranked in the Top 11. Since September 2019, Sydney's ranking has significantly declined, falling to 20th in March 2020 and 32nd in September 2020.

Melbourne's ranking has predominantly been between 18th and 37th since March 2007. It has only been ranked in the Top 15 three times. Similar to Sydney, Melbourne's ranking has declined in the past year to 21st in March 2020 and 27th in September 2020.

Since the first GFCI was launched in March 2007, Sydney and Melbourne have consistently been viewed as less attractive financial centres compared to Asian financial centres, such as Hong Kong, Singapore and Tokyo that have retained positions in the Top 6 of the GFCI. Although Shanghai was either ranked behind or similar to Sydney, since 2017 Shanghai's competitiveness has dramatically risen, ranking in the Top 6 from September 2017, and as the 3rd most attractive financial centre in September 2020.

#### Reason for decline in Sydney's ranking

It is useful to compare the assessment of Sydney in GFCI 28 (September 2020) where Sydney was ranked 32nd globally to GFCI 24 (September 2018) where Sydney was ranked 7th, and to ascertain the reasons for such a decline.<sup>25</sup> The GFCI survey breaks down the aggregate rankings for each centre into a "Top 15" by areas of competitiveness.<sup>26</sup> In GFCI 24, Sydney was in the Top 15 for three of the five areas of competitiveness, with rankings of 12th for Business

<sup>24</sup> Data drawn from bi-annual GFCI reports from 1 March 2007 to 28 September 2020. Z/Yen 2020, *Public Reports*, Z/Yen <<https://www.longfinance.net/publications/long-finance-reports/>>.

<sup>25</sup> *GFCI 28*; Wardle, M & Mainelli, M 2018, *The Global Financial Centres Index 24 – September 2018*, Z/Yen, <[https://www.longfinance.net/media/documents/GFCI\\_24\\_final\\_Report\\_7kGxEKS.pdf](https://www.longfinance.net/media/documents/GFCI_24_final_Report_7kGxEKS.pdf)> ('GFCI 24').

<sup>26</sup> *GFCI 28*, p. 9.

Environment, 8th for Financial Sector Development and 13<sup>th</sup> for Reputational and General.<sup>27</sup> By GFCI 28, only 2 years later, Sydney was only represented in the Top 15 for one area of competitiveness, namely Reputation and General, where it had fallen to 14th.<sup>28</sup>

In relation to Sydney's fall in the Business Environment area of competitiveness, GFCI 28 remarks that the major issue in this criterion is that ***"the regulatory environment is still seen as the central pillar needed for a successful financial centre...Must strike the right balance of regulation, to reduce corruption without stifling innovation and development with greater transparency."*** Sydney's decline in the Business Environment suggest that the regulatory balance may not have been conducive to financial centre development and that the recommendations in this Report, particularly Recommendations 11 and 13, may result in a better-balanced regulatory environment to attract/retain mobile financial business.

A further comment in GFCI 28 is in relation to taxation, where GFCI 28 states that ***"in general, low taxation is seen as better for business. Tax incentives are a key way to attract investment business and top talent."*** This comment highlights, from a policy perspective, the need to retain an effective OBU regime and to bolster the regime with additional settings that provide Australia with a competitive tax environment.

The GFCI methodology also examines reputation, through comparing a weighted average of responses based on scores given for reputation against the overall assessment scores, with the difference, where positive, referred to as the "reputational advantage." In GFCI 24, Sydney had a reputational assessment of 806 and a reputational advantage of 72; by GFCI 28 these had fallen to 743 and 61 respectively, suggesting that Sydney's reputation as a financial centre had waned in the intervening period. The GFCI states that drivers of strong reputational scores include "strong marketing or general awareness" and the fall in Sydney's rating in this regard is reflective of the lack of recent focus on Australia's financial centre settings, as evidenced by the failure to implement outstanding recommendations of the 2009 Johnson Report.

### 2.3.2.2 Industry Ranking

Appendix 1 shows the Top 15 financial centres across 8 sectors in the financial services industry from GFCI 28's industry sector sub-indices.<sup>29</sup> Sydney is only in the Top 15 financial centres for Investment Management at 14th while Melbourne is not in the Top 15 for any sector. This is in contrast with GFCI 24 (September 2018) where Sydney was in the Top 15 for Banking (11th), Investment Management (8th) and Government & Regulatory (15th).

By way of comparison to other AsiaPac financial centres, Singapore is in the Top 12 for all 8 industry sectors, Tokyo is in the Top 12 for 7 industry sectors and Hong Kong is in the Top 6 for all 8 industry sectors. Compared to financial centres in China, Shanghai is in the Top 6 across all 8 industry sectors, Beijing is in the Top 9 for 7 industry sectors and Shenzhen is in the Top 13 for all 8 industry sectors.

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<sup>27</sup> GFCI 24, p. 12.

<sup>28</sup> GFCI 28, p. 10.

<sup>29</sup> Wardle, M & Mainelli, M 2020, *The Global Financial Centres Index 28*, p. 4 Z/Yen, p. 44 <  
<https://www.longfinance.net/publications/long-finance-reports/global-financial-centres-index-28/>>.

### 2.3.3 World Competitiveness Ranking

The World Competitiveness Yearbook 2021 is the most recent annual report produced by the Institute for Management Development (IMD).<sup>30</sup> It details the competitiveness of 63 countries in the World Competitiveness Ranking 2020 which is based on how countries manage their competencies to achieve long-term value creation.<sup>31</sup>

IMD uses 340 different competitiveness criteria that are selected as a result of comprehensive research and feedback from the business community, government and academics to measure a country's competitiveness. In addition to statistical indicators, IMD considers responses by mid and upper level managers to an executive opinion survey, where they are asked about the future competitiveness of the country they work in.

In comparison to GFCI 28, the World Competitiveness Yearbook and World Competitiveness Ranking focus on a country's overall competitiveness whilst the GFCI 28 has a greater focus on the financial centres in a country, and the competitiveness of these financial centres in the financial services industry.

Appendix 2 shows the Top 30 most competitive countries according to IMD's World Competitiveness Ranking in 2020. Australia is ranked 18th, the same rank it was assigned in 2019. Compared to other countries in the AsiaPac region, Australia is significantly behind Singapore (1st) and Hong Kong (5th), and 8 places behind Taiwan (11th). Australia is ranked ahead of China (20th) and New Zealand (22nd).

In 2020, Australia fell well behind Singapore and Hong Kong in the following areas of Global Competitiveness:

- (a) **Tax Policy** (Australia 26th, Singapore 10th, Hong Kong 2nd);
- (b) **Business Legislation** (Australia 11th, Singapore 3rd, Hong Kong 1st);
- (c) **Productivity & Efficiency** (Australia 27th, Singapore 9th, Hong Kong 6th);
- (d) **Labour Market** (Australia 18th, Singapore 3rd, Hong Kong 7th); and
- (e) **Management Practices** (Australia 35th, Singapore 14th, Hong Kong 3rd).

### 2.3.4 Ease of Doing Business Ranking

The World Bank's Ease of Business Ranking ranks countries based on their aggregate scores (**Ease of Doing Business Score**) in the following 10 *Doing Business* topics with each topic given equal weighting and measuring a different aspect of the business regulatory environment:<sup>32</sup>

- (a) **Starting a Business** – Procedures, time, cost and paid-in minimum capital to start a limited liability company for men and women;
- (b) **Dealing with Construction Permits** - Procedures, time, and cost to complete all formalities to build a warehouse and the quality control and safety mechanisms in the construction permitting system;

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<sup>30</sup> IMD 2020, *World Competitiveness Yearbook*, IMD < <https://www.imd.org/wcc/products/eshop-world-competitiveness-yearbook/> >.

<sup>31</sup> IMD 2020, *World Competitiveness Ranking 2020*, IMD < <https://www.imd.org/wcc/world-competitiveness-center-rankings/world-competitiveness-ranking-2020/> >.

<sup>32</sup> World Bank 2020, *Ease of Doing Business Rankings*, World Bank <<https://www.doingbusiness.org/en/rankings>>; World Bank Group 2020, *Doing Business – Comparing Business Regulation in 190 Economies*, p. 19 <<https://openknowledge.worldbank.org/bitstream/handle/10986/32436/9781464814402.pdf>>.

- (c) **Getting Electricity** - Procedures, time, and cost to get connected to the electrical grid; the reliability of the electricity supply; and the transparency of tariffs;
- (d) **Registering Property** - Procedures, time, and cost to transfer a property and the quality of the land administration system for men and women;
- (e) **Getting Credit** - Movable collateral laws and credit information systems;
- (f) **Protecting Minority Investors** - Minority shareholders' rights in related-party transactions and in corporate governance;
- (g) **Paying Taxes** - Payments, time, and total tax and contribution rate for a medium-sized firm to comply with all tax regulations as well as post-filing processes;
- (h) **Trading across Borders** - Time and cost in relation to exporting and importing goods including documentary compliance, border compliance and domestic transport;
- (i) **Enforcing Contracts** - Time and cost to resolve a commercial dispute and the quality of judicial processes for men and women; and
- (j) **Resolving Insolvency** - Time, cost and outcome and recovery rate of insolvency proceedings involving domestic entities.

In the 2020 Ease of Doing Business Ranking, 41 indicators were used across the 10 topics to calculate each country's Ease of Doing Business Score. A higher Ease of Doing Business Score and ranking indicates that the regulatory environment is more favourable for starting and operating a local business.

Appendix 3 lists the Top 20 countries in the 2020 Ease of Doing Business Ranking. New Zealand tops the ranking. Australia is ranked 14th, behind countries with top financial centres including Singapore (2nd), Hong Kong (3rd), United States (6th) and United Kingdom (8th).

#### **Paying Taxes**

Paying Taxes measures, from the perspective of a medium-sized company, the taxes and mandatory contributions it must pay, the time it takes to prepare, file and pay taxes and mandatory contributions (including use of digital technology) and its compliance with post-filing procedures.<sup>33</sup>

Appendix 4 shows the ranking of countries within the Paying Taxes topic together with the number of tax payments made per year, number of hours spent preparing filing and paying taxes per year and the total tax and contribution rate as a percentage of profit.<sup>34</sup>

Australia is ranked 28th, significantly behind Hong Kong (2nd) and Singapore (7th) that are known for their low corporate taxes, and well-designed and simple tax systems. Furthermore, it takes 105 hours to prepare taxes in Australia per year, which is lower than USA (175 hours) and United Kingdom (114 hours), however it's significantly higher than Hong Kong (35 hours) and Singapore (64 hours). Hong Kong and Singapore also outperform Australia in terms of the Total Tax and Contribution Rate with taxes and contribution representing 21.9% of a firm's

<sup>33</sup> PricewaterhouseCoopers & World Bank Group 2020, *Paying Taxes 2020 – The Changing Landscape of Tax and Administration Across 190 Economies* <<https://www.doingbusiness.org/content/dam/doingBusiness/pdf/db2020/PayingTaxes2020.pdf>>.

<sup>34</sup> World Bank 2020, *Paying Taxes*, World Bank <<https://www.doingbusiness.org/en/data/exploretopics/paying-taxes>>.

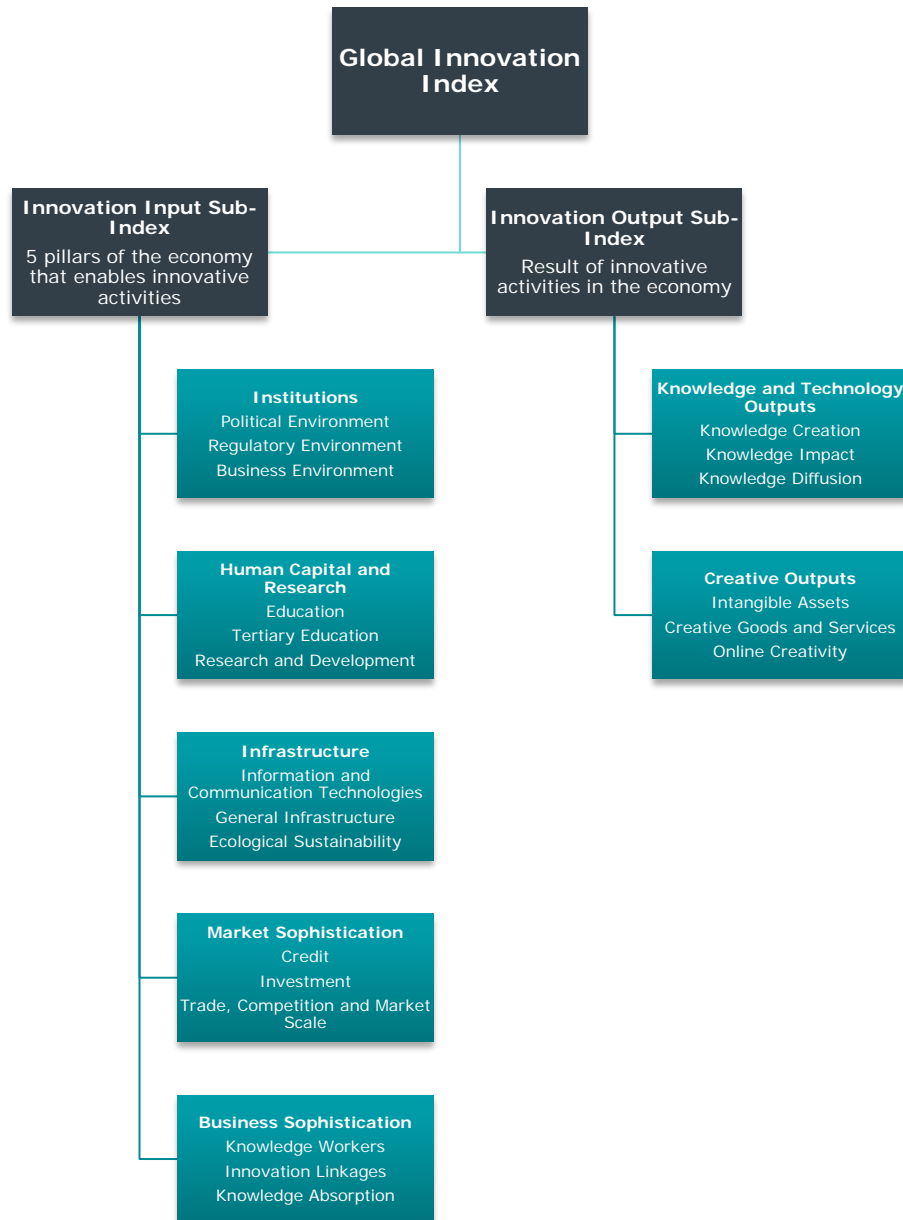


profits in Hong Kong and 21% of a firm's profits in Singapore. For Australia, it represents 47.4% of a firm's profit.

### 2.3.5 Global Innovation Index

The Global Innovation Index (**GII**), co-published by Cornell University, INSEAD and the World Intellectual Property Organisation, ranks and measures a country's innovation performance.<sup>35</sup> The GII draws upon two sub-indices as shown in Figure 4.

**Figure 4**



Appendix 5 lists the top countries in the GII Rankings, Innovation Input Sub-Index Rankings and Innovation Output Sub-Index Rankings in 2020.

In GII 2020, Switzerland was found to be the most innovative country, followed by Sweden (2nd) and USA (3rd). Australia was ranked 23rd and was outperformed by AsiaPac countries

<sup>35</sup> Cornell University, INSEAD and World Intellectual Property Organisation 2020, *Global Innovation Index 2020 – Who Will Finance Innovation?*, Global Innovation Index <<https://www.globalinnovationindex.org/gii-2020-report#>>.

such as Singapore (8th), South Korea (10th), Hong Kong (11th) that make up the Top 3 leaders in innovation in the AsiaPac region.

The sub-components of the GII index highlight both the threats and the opportunities for Australia in terms of reforms to enhance mobility of capital and talent to Australia. Australia performs very strongly in areas such as the quality of its institutions (Rank: 10), human capital and research (Rank: 9) and market sophistication (Rank: 7). These rankings confirm the factors which enhance Australia as a location to establish business, namely economic and political stability, rule of law and access to a well-educated talent pool. These factors are well-established and represent the foundations on which Australia can build to enhance its attractiveness.

Of more concern, however, are the areas where Australia is lagging relative to regional and global peers. Australia ranks 40th in terms of knowledge & technology outputs, with negative growth in knowledge/technology, very low receipts in intellectual property as well as very low net exports of high-tech products and of services in telecommunications, computers and information technology. Notably, the extent of Australia's imports of services in these three categories is also globally low, reflecting that Australia's current policy settings are barriers to both imports and exports of IT related services.

The reforms suggested in this Report are aimed at driving both innovative people and businesses to choose Australia as a place to do business and allow Australia to capitalise on its existing strengths through removing uncertainty and frictions hindering the mobility of capital and people. This will be achieved through:

- (a) concessional tax treatment for incremental innovative activity to be conducted in Australia, thereby nullifying one of Australia's key uncompetitive factors, namely its high corporate tax rate;
- (b) removing current visa and tax uncertainties both with respect to conducting business in Australia and providing settings that encourage executives and their families to relocate to Australia;
- (c) ensuring that corporate structures that are globally accepted as being conducive to the operation of innovative businesses are available in Australia;
- (d) eliminating interest withholding tax, which is a considerable drag on the mobility of capital into Australia, materially enhancing complexity while not significantly contributing to Australian revenue; and
- (e) equipping key regulators, notably ASIC and the ATO, with the tools to approve licences and provide tax certainty on an expedited basis to companies looking to establish in Australia.

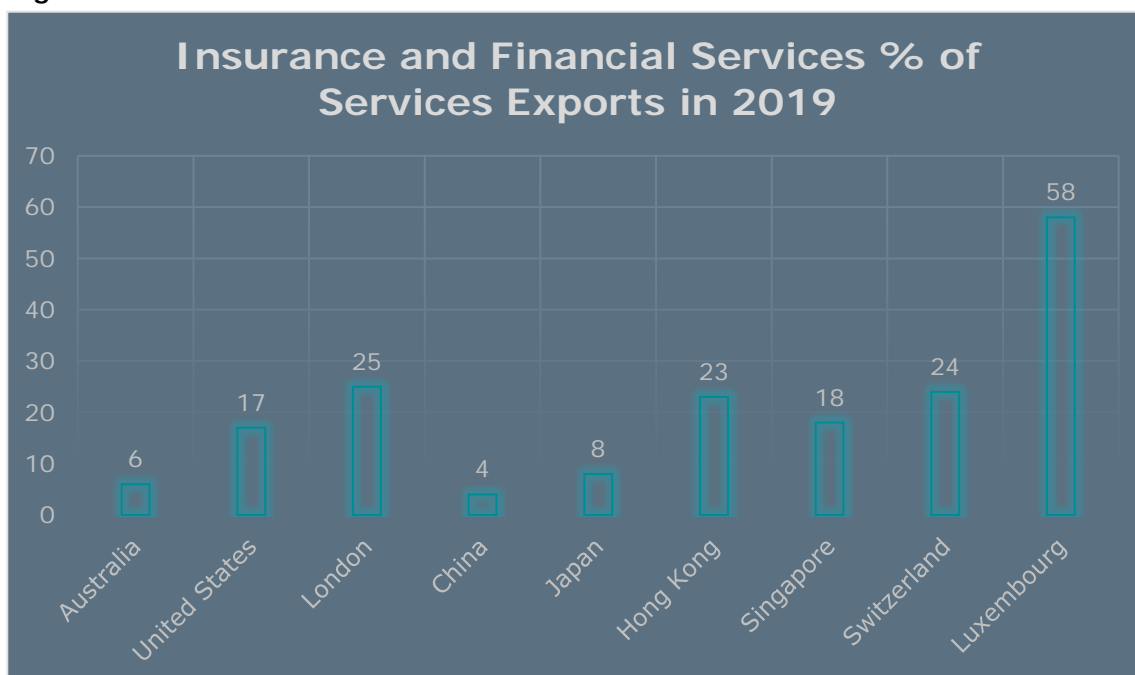
It is expected that implementation of these settings would materially enhance Australia's innovation output and improve its ranking in key areas in the GII, which would in turn provide an objective and respected endorsement of the innovation opportunities available in Australia.

### **2.3.6 Financial Services Exports**

The proportion of financial services exports can reveal the demand for a country's financial services from other countries and the contribution of cross-border financial services to the country's exports.

Figure 5 compares insurance and financial services exports as a percentage of total services exports in 2019 between Australia and countries that have leading financial centres.<sup>36</sup>

**Figure 5**



In 2019, insurance and financial services made up 6% of Australia's services exports and 1.1% of Australia's total exports.<sup>37</sup> This is only marginally higher than China (4%) and slightly lower than Japan (8%), but falls far behind countries of other top financial centres.

Hong Kong's insurance and financial services exports comprise 23% of its services exports, almost 4 times more than that of Australia's. Singapore's financial services exports represent 18% of its total services exports, 3 times more than Australia. United States (17%), London (25%) and Switzerland (24%) also have approximately 3 to 4 times more financial services exports as a percentage of their total services exports compared to Australia. Luxembourg (58%) has greatest proportion of insurance and financial services exports, almost 10 times greater than that of Australia's.

#### Reason for low financial services exports in Australia

One of the reasons for Australia's low financial services exports is because Australia's services exports is dominated by tourism and education exports. In the 2018-19 financial year, tourism accounted for 40.3% of Australia's total services exports and 8.3% of all exports.<sup>38</sup> During the

<sup>36</sup> World Bank 2019, *Insurance and Financial Services (% of service exports, BoP)*, World Bank < <https://data.worldbank.org/indicator/BX.GSR.INSF.ZS>>.

<sup>37</sup> Department of Foreign Affairs and Trade 2019, *Australia's Top 25 Exports, Goods & Services (a)*, Department of Foreign Affairs and Trade < [https://www.dfat.gov.au/sites/default/files/australias\\_goods\\_and\\_services\\_by\\_top\\_25\\_exports\\_2019.pdf](https://www.dfat.gov.au/sites/default/files/australias_goods_and_services_by_top_25_exports_2019.pdf)>; World Bank 2019, *Insurance and Financial Services (% of service exports, BoP)*, World Bank < <https://data.worldbank.org/indicator/BX.GSR.INSF.ZS>>.

<sup>38</sup> Department of Foreign Affairs and Trade 2019, *Australia's Top 25 Exports, Goods & Services (a)*, Department of Foreign Affairs and Trade < [https://www.dfat.gov.au/sites/default/files/australias\\_goods\\_and\\_services\\_by\\_top\\_25\\_exports\\_2019.pdf](https://www.dfat.gov.au/sites/default/files/australias_goods_and_services_by_top_25_exports_2019.pdf)>; Austrade & Tourism Research Australia, *Tourism Satellite Account – Summary of Key Results 2018-19* < <https://www.tra.gov.au/economic-analysis/economic-value/national-tourism-satellite-account/national-tourism-satellite-account>>.

same period, education comprised 38.7% of Australia's total services exports and 8.1% of all exports.<sup>39</sup> These sectors are also the most impacted by COVID-19 and will continue to be affected in the post COVID-19 environment.

### 2.3.7 Funds Under Management Offshore

The Johnson Report in 2009 observed:

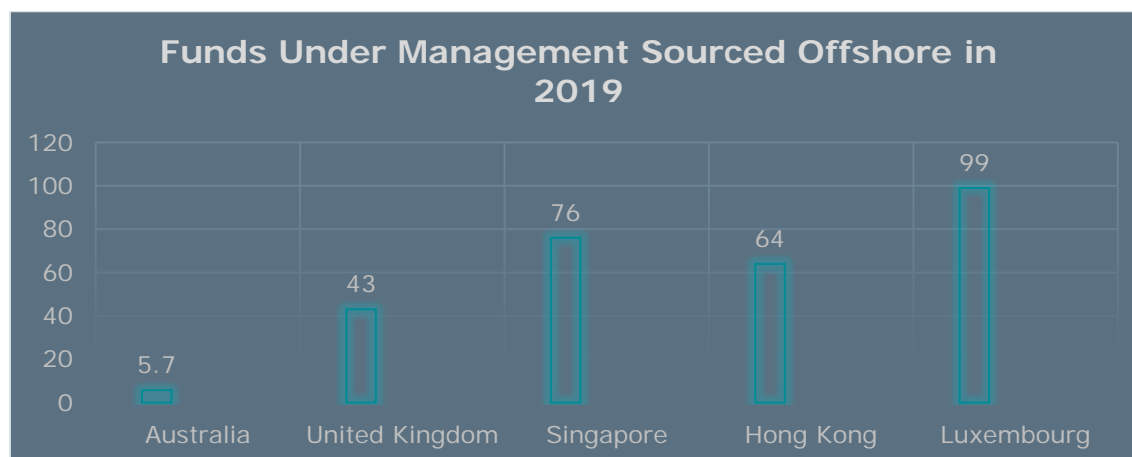
***"Australia has arguably the most efficient and competitive full service financial sector in the Asia-Pacific region. It is strong, well-regulated, and highly regarded around the world.***

***Yet our exports and imports of financial services are low by international standards. Our funds management sector, one of the largest and most sophisticated in the world, manages only a small volume of funds from offshore."***

The above statement remains true today. Figure 6 compares funds under management sourced offshore between Australia and various countries with leading financial centres in 2019.<sup>40</sup> Australia managed only 5.7% of total funds on behalf of overseas investors in 2019. This is very low compared to countries with leading financial centres.

In 2019, Singapore sourced 76% of total funds from offshore, 13 times more than Australia. Hong Kong sourced 64% from offshore, 11 times more than Australia. The UK sourced 43% from offshore and almost all of Luxembourg's funds is managed on behalf of overseas investors, representing 99% of total funds.

**Figure 6**



<sup>39</sup> Department of Foreign Affairs and Trade 2019, *Australia's Top 25 Exports, Goods & Services (a)*, Department of Foreign Affairs and Trade  
<[https://www.dfat.gov.au/sites/default/files/australias\\_goods\\_and\\_services\\_by\\_top\\_25\\_exports\\_2019.pdf](https://www.dfat.gov.au/sites/default/files/australias_goods_and_services_by_top_25_exports_2019.pdf)>; Department of Foreign Affairs and Trade, *Trade and Investment at a Glance 2020* <<https://www.dfat.gov.au/sites/default/files/trade-investment-glance-2020.pdf>>.

<sup>40</sup> Financial Services Council 2019, *State of the Industry – 2019* <<https://www.fsc.org.au/resources/fsc-state-of-the-industry-2019>>; The Investment Association 2020, *Investment Management in the UK in 2019-2020 - the Investment Association Annual Survey* <<https://www.theia.org/sites/default/files/2020-09/20200924-imsfullreport.pdf>>; Monetary Authority of Singapore 2020, *2019 Singapore Asset Management Survey – Singapore – The Asset Management and Sustainability Centre in Asia-Pacific* <<https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Surveys/Asset-Management/Singapore-Asset-Management-Survey-2019.pdf>>; Securities and Futures Commission 2020, *Asset and Wealth Management Activities Survey 2019* <[https://www.sfc.hk/-/media/EN/files/ER/Reports/AWMAS\\_2019\\_EN.pdf](https://www.sfc.hk/-/media/EN/files/ER/Reports/AWMAS_2019_EN.pdf)>.



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A photograph of a city skyline at sunset, with buildings reflected in the water. The sky is a clear blue, and the water is calm, showing a clear reflection of the city. The buildings are illuminated with various colors, including blue, green, and yellow. The water is a deep blue, and the reflection is sharp. The foreground shows a rocky shore with some sparse vegetation.

# Challenges

03

## 3. Challenges

### 3.1 Business Environment

A financial centre's competitiveness is influenced by its business environment, human capital, infrastructure, financial sector development and reputation. The GFCI 28 found that business environment represented the most important factor for a financial centre's competitiveness, followed by human capital, reputation, infrastructure, and financial sector development.<sup>41</sup> It also found that business environment and reputation have a significant correlation with a financial centre's competitiveness.

The business environment area comprises four instrumental factor groups, which are shown in Figure 7. Australia has high political stability, rule of law and a sound macroeconomic environment. However, these are overshadowed by Australia's complex and inefficient taxes and regulatory environment, which are reducing the appeal of Australia's business environment and eroding the advantages that Australia offers.

**Figure 7**

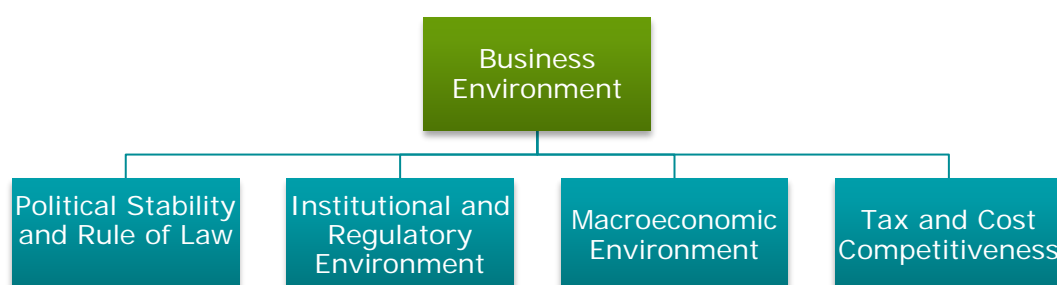


Table 1 shows the Top 15 financial centres in the business environment area.<sup>42</sup> Due to Australia's unfavourable tax and regulatory environment, there are no Australian financial centres in the Top 15. By way of contrast, Hong Kong and Singapore, which both have more pro-business and simple taxes and regulations, are ranked 3rd and 6th respectively.

Morningstar's study on regulation and taxes (**Morningstar's study**) provides a similar result.<sup>43</sup> Australia's tax and regulatory regime was graded below average behind 20 other markets, including Hong Kong and Singapore which were both graded average.

**Table 1**

Rank	Financial Centre
1	New York
2	London
3	Hong Kong
4	Geneva
5	Chicago

<sup>41</sup> Wardle, M, Morris, H and Mainelli, M 2020, *The Global Financial Centres Index 28*, Long Finance, China p. 44 < <https://www.longfinance.net/publications/long-finance-reports/global-financial-centres-index-28/> > (GFCI 28).

<sup>42</sup> GFCI 28, p. 44

<sup>43</sup> Morningstar 2020, *Global Investor Experience Study: Regulation and Taxation*, p. 8 < <https://www.morningstar.com/lp/global-investor-experience-tax-and-regulation> >.

Rank	Financial Centre
6	Singapore
7	Amsterdam
8	Beijing
9	Shanghai
10	Zurich
11	Frankfurt
12	Copenhagen
13	Tokyo
14	San Francisco
15	Montreal

### 3.1.1 Taxes

Taxation is a key factor to a competitive business environment and in turn, an internationally competitive financial centre. Respondents to the GFCI 28 questionnaire viewed low taxation as better for businesses and noted the importance of tax incentives to attract businesses and top talent.<sup>44</sup>

Australia has one of the most complex tax systems in the world. Australia's income tax law comprises a variety of legislations including, among others, the ITAA 1936 (7 volumes and 2018 pages), ITAA 1997 (12 volumes and 4921 pages) and Fringe Benefit Tax Assessment Act 1986 (2 volumes and 479 pages), and an abundance of case law and ATO rulings. In contrast, Singapore has one primary piece of legislation, the Income Tax Act, which is only 1104 pages long. The frequent changes to tax law and ATO rules further adds to the complexity of Australia's tax system. When it comes to lodging an income tax return, it can be difficult for individuals and businesses to navigate through the tax system without a tax agent to both comply with Australia's tax laws and make the most of tax savings within the framework.

A study in 2014 that measured the impact of tax administrative burden (based on number of annual tax payments and time required to pay taxes) on firm entry in 118 countries over a period of 6 years found that complex tax systems created administrative burden and discouraged firm entry irrespective of the corporate tax rate.<sup>45</sup> It was also found that when the tax administrative burden was reduced by 10%, this would increase firm entry by 3%.<sup>46</sup>

As shown in Appendix 4, Hong Kong and Singapore, that are both known for their clear and simple tax rules, outperform Australia in respect of the hours spent preparing, filing and paying taxes every year. It only takes 35 hours per year for a medium-sized business to prepare taxes in Hong Kong and 64 hours in Singapore. Due to the complexity of the Australian tax system, it takes 105 hours.

One of the reasons for Australia's below average grade in Morningstar's study is that Australia's tax policy, compared to some other markets, create distortions and disincentives to invest.

<sup>44</sup> GFCI 28, p. 11.

<sup>45</sup> Braunerjelm, P & Eklund, J 2014, 'Taxes, Tax Administrative Burdens and New Firm Formation', *International Review for Social Sciences*, vol. 67, no. 1 pp. 1-11.

<sup>46</sup> Braunerjelm, P & Eklund, J 2014, 'Taxes, Tax Administrative Burdens and New Firm Formation', *International Review for Social Sciences*, vol. 67, no. 1 pp. 1-11.



There is tax on capital gains on managed funds, which the Australian government is proposing to increase, and withholding tax on dividends. Such taxes discourage overseas investors from investing in Australia.

Furthermore, Australia imposes tax at rates higher than international standards and imposes tax in circumstances that are exempt in other countries. As highlighted below in section 3.3, Australia has one of the highest corporate tax rates in the world.

### **3.1.2 Regulatory environment**

Respondents to the GFCI 28 questionnaire identified the regulatory environment as a central pillar for a successful financial centre with the need for a country to strike the right balance of regulation.<sup>47</sup> Australia's regulation of the financial services industry fails to strike such balance. There has been a greater risk-aversion by Australian regulators in recent decades, leading to regulations that solely focus on consumer and investor protection as well as financial stability. If not balanced by attention to competitiveness, these regulations can come at the cost of unnecessarily stifling innovation, entrepreneurship and migration of business to Australia. Simpler and more pro-business friendly regulations are needed, particularly in the context of regulating the emerging Fintech industry.

## **3.2 Status of Johnson Report**

The Australian Financial Centre Forum's report on Australia as a Financial Centre in 2009, the Johnson Report, made a number of recommendations to reform Australia's tax and regulatory settings so as to position Australia as a leading financial centre in the AsiaPac region and globally. As of 2020, the majority of the recommendations have not been implemented. Appendix 6 provides a summary of the status of the recommendations.

## **3.3 Corporate Tax**

### **3.3.1 COMPARISON TO OTHER JURISDICTIONS**

#### **3.3.1.1 Corporate Tax Rate**

##### **Trend**

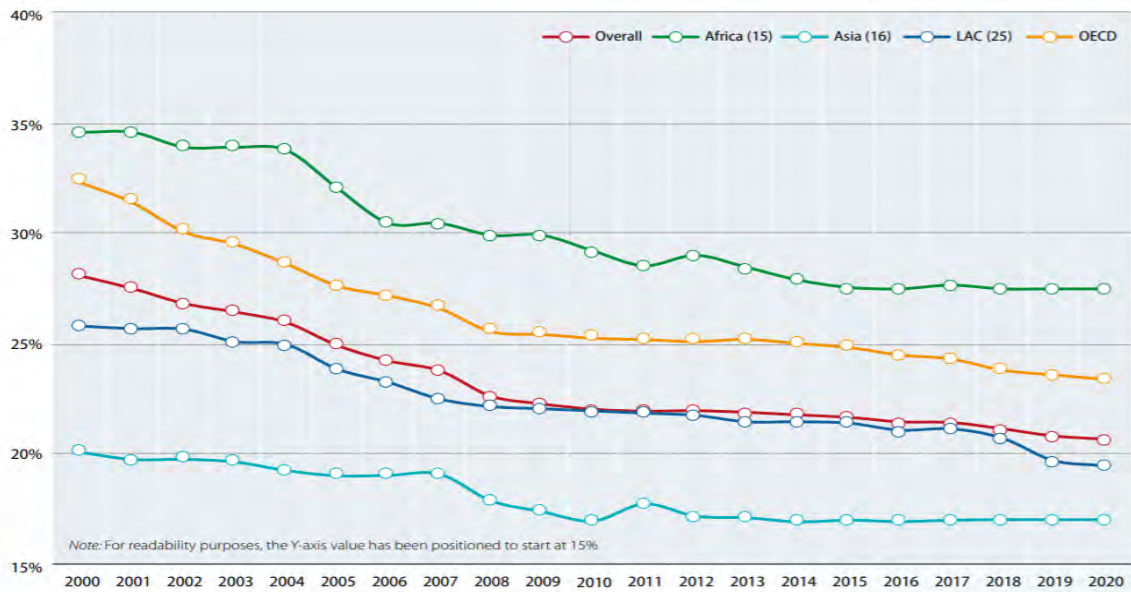
While Australia's headline corporate tax rate has stood at 30% since 2001-02, there has been a trend of falling headline corporate tax rates in Asian jurisdictions and among OECD member states. The average headline corporate tax rate in Asian jurisdictions declined from 20.2% in 2000 to 17% in 2020. For OECD member states, the average headline corporate tax rate reduced from 32.2% in 2000 to 23.2% in 2020. Figure 8 illustrates the trend of declining average headline corporate tax rates by region.<sup>48</sup>

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<sup>47</sup> GFCI 28, p. 11.

<sup>48</sup> Organisation for Economic Co-operation and Development 2020, *Corporate Tax Statistics – Second Edition*, Organisation for Economic Co-operation and Development 2020, p. 13 <<https://www.oecd.org/tax/tax-policy/corporate-tax-statistics-second-edition.pdf>>.

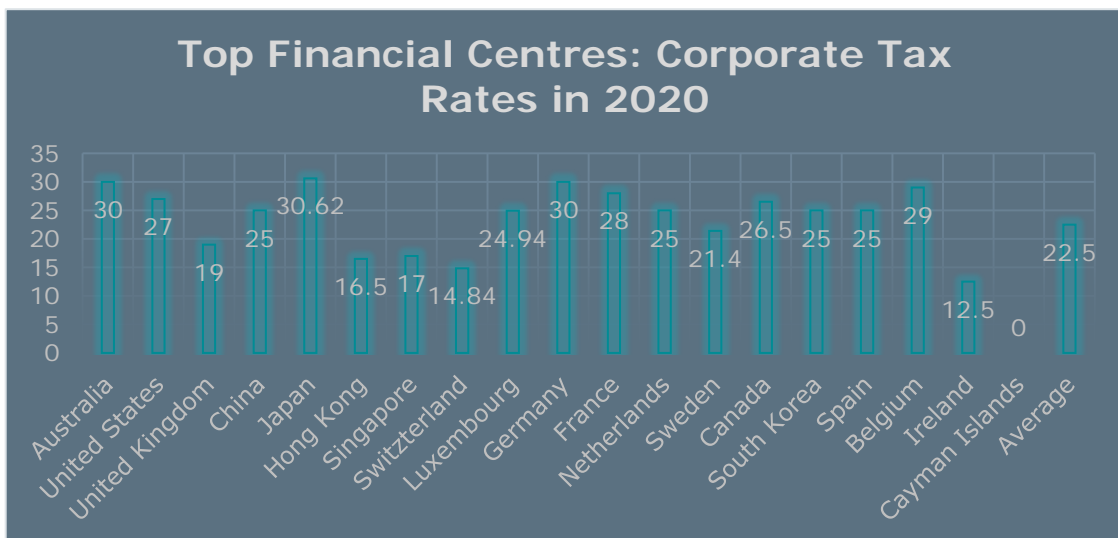
**Figure 8**



### Top Financial Centres

Australia's corporate tax rate is higher than the countries that are home to the top financial centres in 2020. Figure 9 shows the corporate tax rates of the top financial centres in 2020 compared to Australia.<sup>49</sup>

**Figure 9**

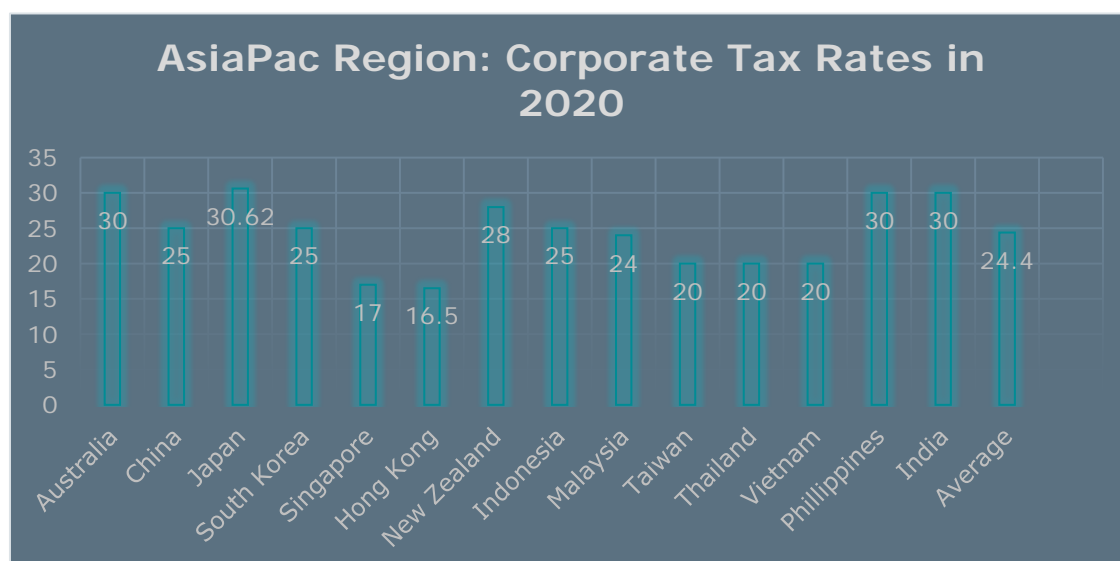


<sup>49</sup> KPMG 2020, *Corporate Tax Rates Table*, KPMG <<https://home.kpmg/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html>>. These rates include Federal, state and local income taxes where applicable.

## AsiaPac Region

Within the AsiaPac region, Australia's corporate tax rate is one of the highest in the region, particularly when compared to Singapore (17%) and Hong Kong (16.5%). Figure 10 shows the corporate tax rate of countries in the AsiaPac region in 2020.<sup>50</sup>

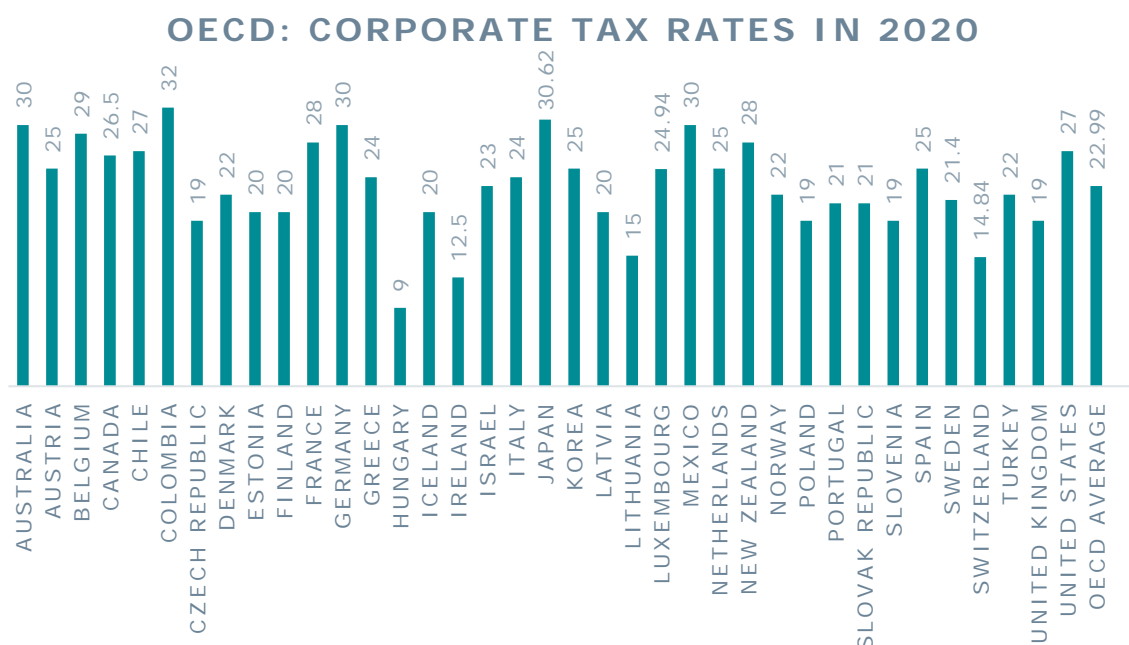
**Figure 10**



## OECD members

Among OECD member states, Australia has the 3rd highest corporate tax rate in 2020, higher than 32 out of the 37 member states and the OECD average of 22.99%. Figure 11 shows the corporate tax rate of each OECD member state in 2020.<sup>51]</sup>

**Figure 11**



<sup>50</sup> KPMG 2020, *Corporate Tax Rates Table*, KPMG <<https://home.kpmg/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html>>. These rates include Federal, state and local income taxes where applicable.

<sup>51</sup> KPMG 2020, *Corporate Tax Rates Table*, KPMG <<https://home.kpmg/xx/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html>>. These rates include Federal, state and local income taxes where applicable.

### 3.3.2 ALTERNATIVE TO REDUCING INCOME TAX RATES

We note that the Government has pursued a lower corporate tax rate over a period of many years but this has not been passed by the Australian Senate. We also note that there will be a need to reduce Budget Deficits over the medium-term. Our Recommendations therefore assume that there is a low prospect of the overall corporate tax rate being lowered in the foreseeable future (however desirable that may be to increase economic activity and attract business investment).

Our Recommendations therefore work within the current corporate and individual tax regime and are extremely focused and targeted. They are designed to more surgically attract genuinely new, incremental and job-creating business investment in Australia and to attract founders, entrepreneurs and decision-makers in large global and regional businesses to base themselves in Australia, and therefore employ more people in Australia.



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# Removing current barriers to businesses being based in Australia





## 4. Removing barriers for businesses to be based in Australia



The best way to proactively encourage job-creating business activity in Australia is to remove the barriers and complexities that stop investment occurring or cause people to make investment and hire people in other places that are less expensive or complex to navigate. Removing broad impediments to business and reducing complexity is, in our view, a preferable way to encourage more investment and a more sustainable way to create jobs than subsidising specific sectors or activities.

While a lower and simpler corporate tax regime would be the optimal way to attract a broad base of foreign investment, we note that prior proposals in this regard have not received sufficient support to be legislated and so we have focused in this Report on more targeted simplification and "scraping off barnacles" that would have maximum positive impact but at low or no cost to the Federal Budget.

## 4.1 Corporate Collective Investment Vehicle

### RECOMMENDATION 1:

Complete the Corporate Collective Investment Vehicle (CCIV) regime, with particular reference to matching the best features of the Singapore VCC structure.

#### 4.1.1 OVERVIEW

The Committee recommends that the CCIV be implemented as soon as practicable and that a final intense round of consultation takes place on the tax issues to ensure that areas currently identified as being unresolved can either be dealt with or do not present a significant obstacle to its take-up.

#### 4.1.2 BACKGROUND

One of the principal recommendations of the Johnson Report in 2009 was to introduce a broader range of collective investment vehicles into the Australian market.<sup>52</sup>

Funds in Australia are currently structured as managed investment schemes, which are often based on a unit trust structure. The unit trust based investment structure acts as a barrier to foreign investors in funds being managed in Australia for the following reasons:

- (a) overseas investors and fund managers are not familiar with unit trust investment structures compared to corporate-based investment structures, which, for example, facilitate the use of special purpose vehicle structures to hold assets as is usual for funds holding illiquid assets;
- (b) offshore investors need to focus on understanding regulation by both the *Corporations Act 2001* (Cth) and general trust laws;
- (c) lack of flexibility with distributing income as it needs to be distributed to the unitholder proportionate to their unitholding; and
- (d) a unit trust cannot retain profit as all profit must be distributed to unitholders at the end of each financial year.

To overcome these challenges and to align Australia's regulatory regime with overseas regimes, the Federal Government proposed to introduce a CCIV framework during the 2016-17 Budget.<sup>53</sup> The CCIV has been proposed to have the following features:<sup>54</sup>

- (a) it will be a company limited by shares with separate legal personality;
- (b) it will be registered with ASIC and regulated by the *Corporations Act 2001* (Cth);
- (c) it can be set up as a single standalone fund or umbrella fund with sub-funds. The assets and liabilities of each sub-fund in an umbrella structure are segregated. Each sub-fund will need to be registered with ASIC;
- (d) it will be incorporated as either a retail or wholesale fund with a retail CCIV fund being subject to greater regulatory requirements; and
- (e) it will cater for both open-ended and close-ended investment strategies.

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<sup>52</sup> Johnson Report, p. 64.

<sup>53</sup> Australian Government 2016, *Budget 2016-17*, Australian Government, p. 39 < [https://archive.budget.gov.au/2016-17/bp2/BP2\\_consolidated.pdf](https://archive.budget.gov.au/2016-17/bp2/BP2_consolidated.pdf) >.

<sup>54</sup> The Treasury 2019, *Corporate Collective Investment Vehicle Bill*, The Treasury < <https://consult.treasury.gov.au/financial-system-division/c2019-t354340/> >.



Several rounds of consultation have been undertaken in relation to the CCIV and these have narrowed down the corporate law issues to a very small number but have left a number of questions about adverse tax consequences. The most important residual problems with the proposed tax rules appear to relate to:

- (a) the imposition of punitive taxation on CCIV sub-funds that fail the eligibility or trading tests;
- (b) the proposed application of the widely-held and closely-held tests to foreign investors in CCIVs; and
- (c) the complex rules and internationally uncompetitive rates of non-resident withholding tax imposed on foreign investors into Australian funds.

Previous industry submissions on these issues suggest that the failure to adequately address these issues would result in the failure of the CCIV regime.

#### 4.1.2.1 Singapore – Variable Capital Company

The Committee notes that Singapore launched a Variable Capital Company (VCC) framework in January 2020.<sup>55</sup> Some key features of a VCC include:<sup>56</sup>

- (a) it can be formed as a single standalone fund or an umbrella fund with 2 or more sub-funds. For an umbrella fund, assets and liabilities of each sub-fund are segregated, which can provide limited liability for investors in a sub-fund. The umbrella fund can also achieve cost and management efficiencies through centralised administration and governance;
- (b) it can be used for a wide range of investment strategies both traditional and alternative, and as open-ended and close-ended;
- (c) the VCC capital will always be equal to the net assets, enabling flexibility with issuing and redeeming shares, and paying dividends from the capital and/or profits;
- (d) fund managers can incorporate a new VCC or re-domicile an overseas fund equivalent to a VCC by transferring their registration to Singapore as a VCC; and
- (e) its register of members, financial statements and constitution are not publicly available.

Singapore's VCC framework has been regarded as a game changer for Singapore's funds management industry and has been very successful in attracting funds to domicile (or redomicile) there. Just during the VCC pilot programme in late 2019, 18 fund managers incorporated or re-domiciled 20 investment funds as VCCs.<sup>57</sup> Since the January launch, a total of 177 VCCs have been registered with the Accounting and Corporate Regulatory Authority.<sup>58</sup> In addition, Singapore has launched a VCC Grant Scheme that covers eligible expenses to further encourage adoption and conversion to VCC.

The structure of the Singapore model should be adopted where possible, as it appears to be current "best practice", but the Committee notes that most other competitor jurisdictions to

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<sup>55</sup> Monetary Authority of Singapore 2020, *MAS and ACRA Launch Variable Capital Companies Framework*, Media Release, 15 January, <<https://www.mas.gov.sg/news/media-releases/2020/mas-and-acra-launch-variable-capital-companies-framework>>.

<sup>56</sup> Accounting and Corporate Regulatory Authority 2020, *Variable Capital Companies*, Accounting and Corporate Regulatory Authority <<https://www.acra.gov.sg/business-entities/variable-capital-companies>>.

<sup>57</sup> Monetary Authority of Singapore 2020, *MAS and ACRA Launch Variable Capital Companies Framework*, Monetary Authority of Singapore, Media Release, 15 January, <<https://www.mas.gov.sg/news/media-releases/2020/mas-and-acra-launch-variable-capital-companies-framework>>.

<sup>58</sup> Accounting and Corporate Regulatory Authority 2020, *List of VCCs Registered with ACRA Since 14 Jan 2020*, Accounting and Corporate Regulatory Authority <[https://www.acra.gov.sg/docs/default-source/default-document-library/variable-capital-companies/list-of-vccs\\_as\\_at\\_27november20.pdf](https://www.acra.gov.sg/docs/default-source/default-document-library/variable-capital-companies/list-of-vccs_as_at_27november20.pdf)>.

Australia as a financial centre have some form of corporate managed investment vehicle and the most important thing is to have an Australian alternative established expeditiously.

#### **4.1.3 ECONOMIC BENEFIT**

This Recommendation would improve Australia's competitiveness in the funds management industry and, in turn, increase the quantity and diversity of offshore funds that could be domiciled in Australia.

#### **4.1.4 EXPECTED BUDGET COST**

The CCIV structure would be a new structure and would be expected to have a positive impact on the Budget from having more funds henceforth being established in Australia, rather than in offshore jurisdictions.

## 4.2 Investment Manager Regime

### RECOMMENDATION 2:

Amend the Investment Manager Regime rules to deal with issues in relation to (i) residence of foreign funds (ii) treatment of debt securities and (iii) treatment of fund manager interests in funds.

### 4.2.1 OVERVIEW

One of the recommendations of the Johnson Report was to remove impediments to global fund portfolios being managed by Australians.<sup>59</sup> Successive governments have accepted that managing and domiciling funds in Australia, rather than an offshore jurisdiction, leads to increased employment (both direct and indirect) and export revenues for Australia.

There is therefore a bipartisan view that when foreign money is invested in foreign assets via an Australian domiciled and/or managed fund then:

- (a) the foreign investor should not pay Australian tax on the earnings of the fund; but
- (b) the Australian resident fund manager should pay tax on its earnings.

The Australian Investment Manager Regime (**IMR**) was supposed to give effect to this but unfortunately the IMR has not yet resolved the issue.

There are three particular areas where legislation needs to be amended to remove barriers that currently prevent the agreed public policy objective being realised in practice:

- (a) insert into the IMR rules a protection for foreign funds from being treated as an Australian resident where they otherwise satisfy the IMR regime requirements;
- (b) include fees and discount income in relation to loans in the IMR rules as these form an integral part of earnings of debt funds; and
- (c) remove the 20% test from the IMR indirect concession since the income earned by Australian managers would be subject to Australian income tax already as the IMR concession does not apply to Australian residents, so the unnecessary additional test simply makes fewer funds base here.

### 4.2.2 BACKGROUND

#### 4.2.2.1 Residual Impediments on Foreign Managed Funds

The IMR has not resolved taxation issues once and for all for eligible foreign funds and their investors in the following three areas:

- (a) The issue of a foreign fund, by virtue of appointing an Australian investment manager, being treated as an Australian tax resident and taxable in Australia on its worldwide income has not been addressed. On 19 July 2017, the Minister for Revenue and Financial Services announced that the Government would consult on whether a legislative amendment is required to resolve this issue and no such consultation has yet taken place.<sup>60</sup>
- (b) The IMR rules do not explicitly exclude certain taxation of financial arrangements income items such as discount income nor exclude fees in relation to loans, such as

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<sup>59</sup> Johnson Report, p. 59-60.

<sup>60</sup> O'Dwyer, K (Minister for Revenue and Financial Services) 2017, *Improving Australia's Financial Services Taxation Regime*, Media Release, Parliament House, 19 July, <<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F5403430%22>>.

origination fees or line fees, from Australian tax. Therefore debt funds are disadvantaged in that these fees and income are an important part of the return that these funds make. This outcome is because the gain that is excluded is the gain on the disposal of the financial arrangement and these fees and income are not in relation to the disposal of the loan. By contrast, in the case of derivatives all gains referable to the derivative are covered by IMR.

- (c) Under the IMR indirect concession, if an Australian fund manager or associate has a right to receive part of the profits of the IMR entity and the value of that entitlement exceeds 20% of the net value of the IMR concession, the concession is reduced by the full amount of the fund manager's entitlement. The 20% test can be problematic for Australian hedge fund and private equity fund managers given the commercial practice that managers have "skin in the game". That is, managers are expected to have material interests in the foreign funds that they manage in order to align manager and investor interests.

We suggest removing the 20% test, noting that the income earned by Australian managers would already be subject to Australian income tax as the IMR concession does not apply to Australian residents. Further, the controlled foreign corporation rules may apply to subject the Australian hedge fund manager's interests in the foreign fund to Australian tax.

#### **4.2.3 ECONOMIC BENEFIT**

Foreign residents are cautious in engaging an Australian fund manager to manage foreign assets due to a concern that the ATO may consider either the income arising from the assets to be sourced in Australia or that the foreign fund should be considered Australian tax resident, giving rise to Australian tax on foreign income or gains.

Broadening the IMR concession to reduce "accidental" or perceived exposure to Australian income tax as outlined above, will create an opportunity for Australian fund managers to provide services to a broader range of funds without creating any risk of exposing those funds to an Australian tax liability that would not have arisen if they had used an offshore fund manager.

This would bring Australia into line with foreign competitor fund tax regimes such as those in Singapore, Hong Kong and Luxembourg. This reform is consistent with the current tax law's intent to only tax non-residents on income and gain from Australian assets.

#### **4.2.4 EXPECTED BUDGET COST**

The Budget cost is not expected to be material on the basis that the ATO has not raised assessments of income tax in relation to these issues.

### 4.3 Withholding Tax – Asia Region Funds Passport

#### RECOMMENDATION 3:

Have no withholding tax apply to funds issued under the Asia Region Funds Passport program.

#### 4.3.1 OVERVIEW

Distributions made by Australian passport funds to overseas investors who are residents of a participating passport economy should be exempt from Australian non-resident withholding tax.

#### 4.3.2 BACKGROUND

Withholding tax is a classic example of an inefficient tax which is very complex and discouraging of business activity but raises very little revenue. Furthermore, the non-resident withholding tax (**NRWT**) system is uncompetitive compared to regimes in competitor countries as a result of:

- (a) multiple rates;
- (b) complexity and difficulty of determining the appropriate rate;
- (c) interactions with tax treaties (including how the treaties deal with trusts);
- (d) no overarching consistent principle of application; and
- (e) much simpler approaches in competitor jurisdictions, with Singapore in particular applying a zero withholding tax rate.

The complexity of the application of Australia's NRWT means the possible tax consequences for foreign investors cannot be explained in a simple and easy to understand manner. The Passport is specifically designed for retail investors so the inability to explain tax simply will put Australia at a substantial disadvantage.

##### 4.3.2.1 Asia Region Funds Passport

The Asia Region Funds Passport was initially a recommendation made by the Johnson Report for Australia to be a more competitive regional financial centre.<sup>61</sup> In April 2016, Australia signed the Asia Region Funds Passport's Memorandum of Cooperation and 2 years later, Australia implemented the Asia Region Funds Passport.<sup>62</sup>

The Asia Region Funds Passport provides a framework for mutual recognition of funds for issue to retail investors between Australia, New Zealand, Japan, South Korea and Thailand. According to the explanatory statement, the purpose of the Asian Region Funds Passport is to facilitate cross-border marketing of passport funds across participating economies, and support growth of the AsiaPac region's funds management industry and the AsiaPac region more generally.<sup>63</sup> The key objectives include to:<sup>64</sup>

- (a) ensure investors receive the benefits of increased competition, for example, lower fees and greater fund choice;

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<sup>61</sup> Johnson Report, p. 86-7.

<sup>62</sup> Corporations Amendment (Asia Region Funds Passport) Act 2018 (Cth).

<sup>63</sup> Explanatory Statement, ASIC Corporations (Asia Region Funds Passport) Instrument 2019/75, 4.

<sup>64</sup> Explanatory Statement, ASIC Corporations (Asia Region Funds Passport) Instrument 2019/75, 5.



- (b) provide a high degree of investor protection—that is, to promote informed and confident investors by ensuring high standards for the operation and offer of passport funds;
- (c) strengthen the capacity and competitiveness of the region's funds management industry;
- (d) deepen the region's financial markets by improving liquidity and access to finance; and
- (e) ensure economies can continue to maintain financial system stability and efficiency. Keeping capital flows within the Asia region could help to strengthen the region's resilience to external shocks and volatility.

A fund in Australia (i.e. managed investment scheme) can be an Australian passport fund if it has been registered with ASIC as an Australian passport fund.<sup>65</sup>

#### **4.3.2.2 Comparison With Regional Competitor Funds**

The three major competitor funds platforms currently offered to AsiaPac investors are:

- (a) Singaporean Variable Capital Company;
- (b) Luxembourg Société d'Investissement à Capital Variable; and
- (c) Hong Kong Open Ended Fund Company.

No tax is levied on the earnings of each of these fund types. Furthermore, no non-resident withholding tax applies to distributions made by these funds to foreign residents.

#### **4.3.3 ECONOMIC BENEFIT**

With certainty that no withholding tax will apply to distributions, Australian managed and domiciled funds can compete on a level-playing field. Specifically, Australian fund managers would be able to compete with competitor funds domiciled in Singapore, Hong Kong and Luxembourg.

#### **4.3.4 EXPECTED BUDGET COST**

Tax revenue from funds that are part of the Asia Region Funds Passport is currently zero and the funds would not be expected to be competitive if withholding tax is imposed so the cost of implementing this Recommendation is expected to be negligible or zero.

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<sup>65</sup> *Corporations Act 2001* (Cth) ss 1212-1212A.

## 4.4 Withholding Tax on Interest

### RECOMMENDATION 4:

Eliminate interest withholding tax on borrowings by financial institutions based in Australia.

#### 4.4.1 OVERVIEW

Interest withholding tax (**IWT**) paid between Australian and other parts of global financial institutions is another example of an inefficient and complex tax. Time and money is wasted on navigating a complex range of exemptions. Many businesses, such as global and regional Treasury services, become based in other countries that would otherwise be based in Australia. We therefore reiterate the recommendations of earlier enquiries such as the Johnson Report<sup>66</sup> and the Henry Tax Review<sup>67</sup> that IWT should cease to apply between financial institutions.

Our Recommendation is that:

- (a) financial institutions in Australia should not be subject to IWT on interest paid to non-residents; and
- (b) future tax treaties and amendments should seek to reduce IWT in both directions to zero (or as low as possible) as it represents an inefficient tax that has a significant distortionary impact without raising substantial revenue.

#### 4.4.2 BACKGROUND

The imposition of IWT in Australia is a barrier to Australia becoming a leading financial centre. IWT is levied on interest paid by an Australian resident payer (including branches) to a non-resident payee. The Australian resident payer must withhold 10% for interest payments, unless exempted by the ITAA 1936 or reduced by Australia's double tax agreements.<sup>68</sup>

In the 2010-11 Budget, the Federal Government committed to proceed with the recommendation by the Johnson Report and Henry Tax Review to phase down the IWT paid by financial institutions on their offshore borrowings.<sup>69</sup> It was announced that the IWT would be reduced to 7.5% in the 2013-14 financial year and further reduced to 5% in the 2014-15 financial year with an aspirational target of zero, subject to the government's medium-term fiscal outlooks.<sup>70</sup>

As of December 2020, the Federal Government has not implemented its announcement in the 2010-11 Budget.

##### 4.4.2.1 Exemptions

The ITAA 1936 provides a number of exemptions from IWT. A summary has been provided in Appendix 7.

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<sup>66</sup> Johnson Report, p. 68.

<sup>67</sup> Commonwealth of Australia 2009, *Australia's Future Tax System - Part Two Volume 1 of 2*, p. 182, < [https://treasury.gov.au/sites/default/files/2019-10/afts\\_final\\_report\\_part\\_2\\_vol\\_1\\_consolidated.pdf](https://treasury.gov.au/sites/default/files/2019-10/afts_final_report_part_2_vol_1_consolidated.pdf)>.

<sup>68</sup> Australian Taxation Office 2020, *Withholding Rate*, Australian Taxation Office, < <https://www.ato.gov.au/Business/PAYG-withholding/In-detail/Investment-income-and-royalties-paid-to-foreign-residents/?page=5>>.

<sup>69</sup> Commonwealth of Australia 2010, *Budget Measures – Budget Paper No. 2 2010-11*, p. 43-4, < <https://archive.budget.gov.au/2010-11/bp2/bp2.pdf>>.

<sup>70</sup> Commonwealth of Australia 2010, *Budget Measures – Budget Paper No. 2 2010-11*, p. 43-4, < <https://archive.budget.gov.au/2010-11/bp2/bp2.pdf>>.

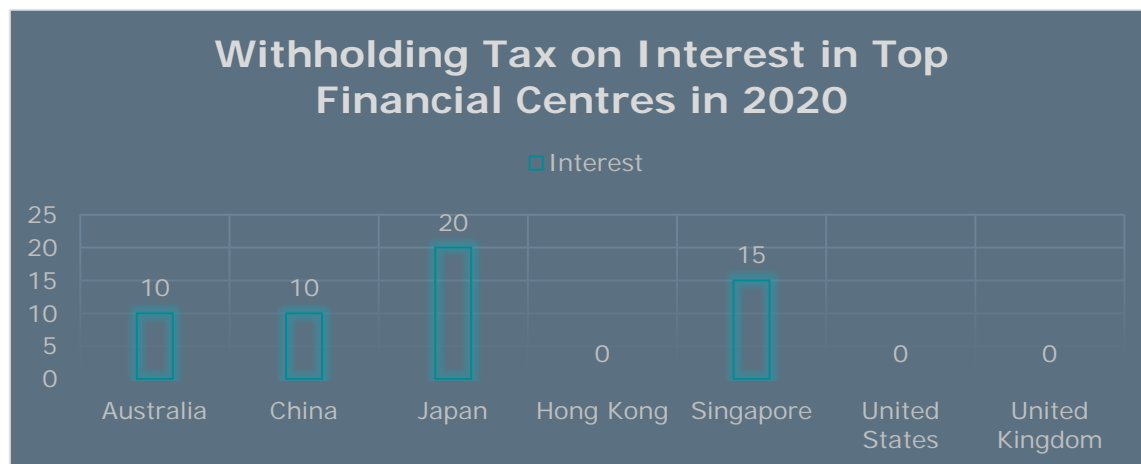
#### 4.4.2.2 Double Tax Agreements

Australia currently has 45 double tax agreements. The double tax agreements may modify the circumstances in which withholding tax applies and the relevant rate.

#### 4.4.2.3 Comparison to Top Financial Centres

Figure 11 shows the IWT rate in top financial centres compared to Australia.<sup>71</sup> Australia's 10% withholding tax on interest exceeds that of major banking centres such as the UK, USA and Hong Kong which generally do not apply interest withholding tax on payments of interest to non-residents in practice, and therefore, Australia is less appealing for cross-border finance.

**Figure 11**



#### 4.4.2.4 Practical Issues with Withholding Tax on interest

##### Complexity

The complexity of Australia's IWT regime has been cited by members of the Committee as one of the main hurdles that has been reducing Australia's attractiveness as a destination for cross-border finance.

To understand whether IWT applies, what the applicable rate is and whether an exemption applies, is not a straightforward task and requires navigating through the increasingly lengthy and complex sections of the ITAA 1936 with a tax expert. By way of example, to satisfy the public offer exemptions under section 128F and section 128FA, the loan must be structured as a debenture, non-equity share or a syndicated loan facility. Thereafter, it must make a public offer in a manner set out in section 128F and ensure that the associate rule is complied with. Full compliance with the exemption will require advice from local tax and finance professionals, which will incur time and money.

There is also a wide variation in IWT rates, creating further complexity. The IWT rate is 5% when interest is paid by an Australian branch of a foreign financial institution to its foreign parent. Different IWT rates apply depending on what country the non-resident payee is from and whether Australia has a double tax agreement with that country that reduces withholding tax.

The existence of the IWT obligation, coupled with the compliance burden associated with determining the circumstances in which IWT applies, the applicability of any exemptions and

<sup>71</sup> Headline rates of IWT in US and UK are 30% and 20% respectively, however, in practice due to a range of exemptions, interest paid to non-residents is generally not subject to withholding tax. PricewaterhouseCoopers 2020, *Withholding Tax (WHT) Rates*, PricewaterhouseCoopers, <<https://taxsummaries.pwc.com/quick-charts/withholding-tax-wht-rates>>.

the appropriate rate at which to withhold are significant disincentives to establishing regional headquarters in Australia.

### Increased Cost of Finance

IWT increases the costs of finance in Australia. As withholding tax applies to interest, when an Australian entity borrows from an offshore lender it often needs to gross-up for the amount withheld. This increases the cost of offshore borrowing, in turn creating a disincentive for Australian entities to borrow from offshore lenders and for those offshore lenders to lend in Australia. For Australian branches and subsidiaries of foreign financial institutions that are often reliant on offshore borrowings from their parents, the increased cost of finance reduces their ability to access funds and pass on the cost savings to customers through affordable financial products.

One of the Johnson Report's recommendations was to remove IWT paid on foreign raised funding by Australian banks, to foreign banks by their Australian branches, and by financial institutions on related party borrowings. This was to ensure that Australia has access to a broad range of offshore savings pools to finance domestic investment needs and improve Australia's competitiveness as a financial centre as, for example, it would facilitate bank regional treasury functions.<sup>72</sup> The Johnson Report noted that Australia's interest withholding tax regime is inconsistent with the approach taken in other financial centres. It noted that:<sup>73</sup>

***"the continuing application of interest withholding tax on financial institutions' borrowing offshore sits uneasily with the Government's desire to develop Australia as a leading financial centre and is putting Australia at a competitive disadvantage with respect to overseas financial centres, which increasingly do not charge interest withholding tax on such transactions."***

This comment has been echoed by:

- (a) **Senate Standing Committee on Economics 2011 Report into Competition within the Australian Banking Sector:**

***"The Committee recommends that interest withholding tax be abolished as budgetary circumstances permit to increase the ability of foreign banks to compete in the Australian market."***<sup>74</sup>

- (b) **Henry Tax Review:**

***"Financial institutions operating in Australia should generally not be subject to Australian interest withholding tax on interest paid to non-residents."***<sup>75</sup>

- (c) **Financial System Inquiry:**

***"For financial institutions, different funding mechanisms are subject to different rates of IWT. Reducing IWT (for the relevant funding mechanisms) would reduce funding distortions, provide a more diversified funding base and, more broadly, reduce impediments to cross-border capital flows."***<sup>76</sup>

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<sup>72</sup> Johnson Report, pp. 66-7.

<sup>73</sup> Johnson Report, p. 68.

<sup>74</sup> Senate Standing Committee on Economics 2011, *Competition Within the Australian Banking Sector*, Parliament of Australia, < [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Completed\\_inquiries/2010-13/bankingcomp2010/report/index](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Completed_inquiries/2010-13/bankingcomp2010/report/index)>.

<sup>75</sup> Commonwealth of Australia 2009, *Australia's Future Tax System - Part Two Volume 1 of 2*, p. 182, < [https://treasury.gov.au/sites/default/files/2019-10/afts\\_final\\_report\\_part\\_2\\_vol\\_1\\_consolidated.pdf](https://treasury.gov.au/sites/default/files/2019-10/afts_final_report_part_2_vol_1_consolidated.pdf)>.

<sup>76</sup> The Treasury 2014, *Financial System Inquiry – Final Report*, The Treasury, p. 279, < <https://treasury.gov.au/sites/default/files/2019-03/p2014-FSI-01Final-Report.pdf>>.

#### 4.4.3 ECONOMIC BENEFIT

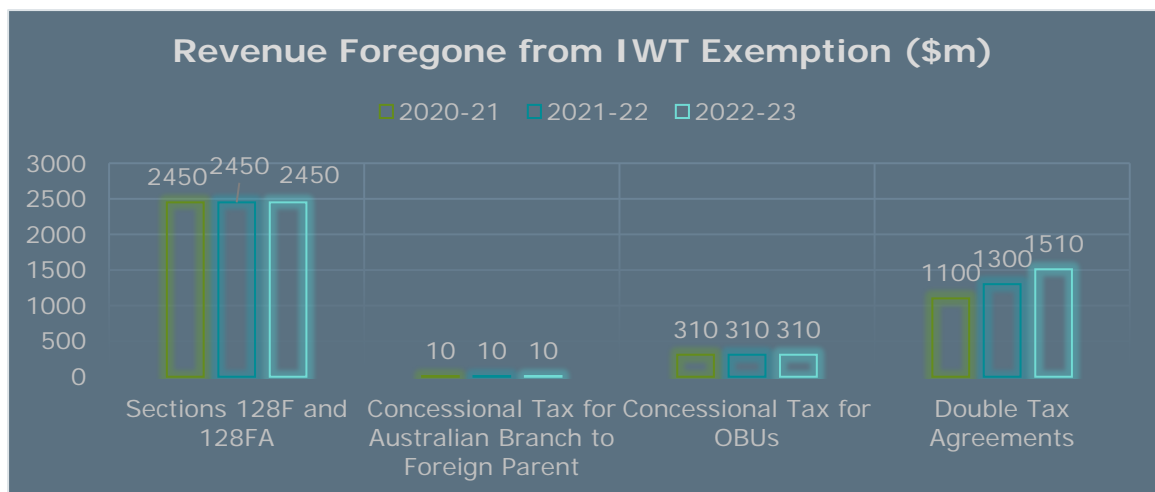
IWT both reduces the attractiveness of Australia as a destination for capital and increases cost of finance for Australian businesses. Removing IWT would reduce the costs of borrowing from offshore and allow Australian financial institutions to access cheaper funding and put downward pressure on interest rate margins. This would bring Australia into line with international tax practice in countries such as the UK and the USA. It should therefore encourage competition and growth in the Australian banking and finance sector.

IWT on borrowings by financial institutions in Australia from offshore has in the past been wrongly justified on the basis of discouraging excessive borrowing that could increase financial risk and/or lead to excessive deductions. However, the issue of how much debt is drawn down from foreign sources is properly a matter of capital regulation and APRA is well attuned to the need to ensure that sufficient capital is held and financial institutions in Australia are not overly reliant on debt from offshore. We believe that removing IWT may, on the contrary, actually assist in financial stability as it lowers the cost and barriers to Australian institutions obtaining liquidity when required.

#### 4.4.4 EXPECTED BUDGET COST

The Budget revenue from IWT has been in structural decline for some time, both due to interest rates globally reaching historical lows but also because Australia's network of double taxation agreements with an IWT exemption for payments made to unrelated financial institutions. Codifying the treaty exemption in domestic law should have an immaterial impact on the Budget. Figure 12 shows the revenue that is foregone from the main IWT exemptions and concessions.<sup>77</sup>

**Figure 12**



<sup>77</sup> The Treasury 2020, Tax Benchmarks and Variations Statement, The Treasury, p. 49, 50, 52, <[https://treasury.gov.au/sites/default/files/2020-01/complete\\_tbvs\\_web.pdf](https://treasury.gov.au/sites/default/files/2020-01/complete_tbvs_web.pdf)>.



## 4.5 Technology Export Royalty Regime

### RECOMMENDATION 5:

Introduce a Technology Export Royalty (TER) patent box scheme to concessional tax royalties on IP that are received by companies from offshore.

#### 4.5.1 OVERVIEW

Whilst we have recently seen some success in the creation of Fintech businesses in Australia, these businesses (despite being established by Australians) are often headquartered overseas with their intellectual property (IP) located overseas and therefore they typically pay little or no Australian tax on their non-Australian revenues. This loss of Australian jobs and tax revenue is the direct result of two features of Australia's tax system as it applies to the Fintech businesses, namely:

- (a) the high Australian corporate tax rate; and
- (b) the adverse operation of the Australian controlled foreign corporation (CFC) rules in relation to royalty income earned by Australian Fintech businesses from IP.

We have observed many Fintech businesses originating in Australia and then relocating their businesses to jurisdictions such as Singapore as a result.

Consistent with work previously conducted as part of the Patent box policies report, we propose that a new TER Regime be used to stop this drain of talent and tax revenue out of Australia by setting the tax rate on qualifying Fintech activities at 12.5% or such other rate as is consistent with the OECD acceptable BEPS Pillar 2 Global Minimum Tax Rate (which is yet to be determined). This tax rate would apply to both royalty income earned from foreign customers as well as royalties derived from foreign subsidiaries. Royalty income earned from domestic customers would not qualify for the TER and would remain subject to tax at ordinary corporate income tax rates.

The TER would also amend the CFC rules to deal with the anomalous attribution of Fintech royalty income to Australian Fintech businesses which is a major impediment to Fintech businesses being headquartered in Australia, which would further encourage Australian Fintech businesses to remain in Australia.

##### 4.5.1.1 Design Features

We believe that TER eligibility should rest on the principles of job creation and creation of new business in Australia. TER integrity design features could at first have reference to criteria that TER recipients would be required to create at least five new FTE jobs in the first year of eligibility and demonstrate that the IP has been substantively generated in Australia. In the second and later years businesses would need to increase FTE headcount by 10% over the prior year's FTE headcount to be eligible for the TER in the later year or years.

Secondly, the TER requirements would be designed with detailed economic substance requirements to ensure that the TER would be acceptable to the OECD under its BEPS framework. A precedent for such substance requirements may be found in the 2016 amendments made to the UK Patent Box regime in order for it to be compliant with the OECD BEPS principles. The UK Patent Box regime is designed to encourage innovation in the UK by providing for a concessional 10% income tax rate on taxable profits from intellectual property.

The 2016 UK Patent Box amendments require the relevant concessional tax profits to be modified to reflect the proportion of the development activity on the asset (or product, or product category) undertaken by the company itself. In general terms, the more work

undertaken in-house or sub-contracted to an unconnected third party, the more beneficial the Patent Box regime will be for a claimant.

To address integrity concerns in relation to the TER, the TER should be designed with similar integrity rules as those that apply to the UK Patent Box regime.<sup>78</sup>

#### 4.5.2 ECONOMIC BENEFIT

The introduction of the TER would encourage the establishment and headquartering of Fintech and other IP-related (Pharmaceutical, MedTech etc.) businesses in Australia with the associated creation of direct jobs and indirect jobs in ancillary industries such as in the IT and professional services industries. The size of this opportunity is immense in light of the current conversion of the economy into a digital economy and as more financial services are provided by digital means.

#### 4.5.3 EXPECTED BUDGET COST

It is expected that the TER should be revenue positive because:

- (a) the concession would only apply to new/incremental activities;
- (b) little or no Australian income tax is currently being paid by most Australian Fintech businesses;<sup>79</sup> and
- (c) the additional tax revenues arising from incremental increases in employment (including PAYG on salaries and payroll tax).

The establishment of the TER is a prime example of a tax concession creating tax revenues by virtue of it encouraging business and activity into a jurisdiction which would otherwise be headquartered overseas. This is a case where Australian tax revenues would increase because 12.5% of something is greater than 30% of nothing.

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<sup>78</sup> For a summary of the UK Patent Box regime substance rules please refer to:  
<https://www.gov.uk/government/publications/corporation-tax-patent-box-compliance-with-new-international-rules/corporation-tax-patent-box-compliance-with-new-international-rules>.

<sup>79</sup> Australian Taxation Office, *2017-18 Report of Entity Tax Information*, Australian Taxation Office,  
<<https://data.gov.au/data/dataset/corporate-transparency/resource/69b1061c-3769-48bd-b5a1-05e725543f6c>>.

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# Attracting Regional and Global Businesses to Move to Australia





## 5. Attracting Regional and Global Businesses to move to Australia



The previous chapter recommended "low hanging fruit" ways to improve the attractiveness of Australia as a place to grow and base a business. This chapter more specifically addresses those businesses which are currently based in other places but are sufficiently mobile that they could be based in Australia if certain settings were improved.

The Committee notes recent Government initiatives to proactively encourage job-creating business to move to Australia, including the appointment of the Prime Minister's Special Envoy for Global Business and Talent Attraction to "pitch" for such companies.

Our view is that the following Recommendations would complement this focus and make a meaningful difference to the propensity of significant and profitable businesses to move their operations to Australia.



## 5.1 Incremental Business Activity Rate

### RECOMMENDATION 6:

Establish an Incremental Business Activity Rate (IBAR) regime whereby companies establishing a "Qualifying Business" in Australia would receive a tax rebate for up to 7 years on profit from these activities.

#### 5.1.1 OVERVIEW

The corporate tax rate in Australia, at 30%, is considerably higher than in competing financial centres such as the United Kingdom (19%), Hong Kong (16.5%) and Singapore (17%).

There are a number of allowances and deductions, and the impact of dividend imputation, that make the effective rate somewhat lower, but it is nevertheless the case that moving a profitable tax-paying business to Australia currently results in an immediate and significant loss of net income for the company making the move. The IBAR is intended to cushion this blow and smooth the transition of businesses for which Australia is an attractive location but for which the corporate tax difference is the major hurdle.

Businesses that qualify for the IBAR would receive a tax rebate for up to 7 years on taxable income which would reduce the tax rate on IBAR qualifying activities to 12.5%. The rebate would only apply to new activities/business, for example, a Hong Kong fund manager relocating its business to Australia or a small Australian equities fund manager may decide to expand its offering to managing international equities and hire new staff to start this new part of the business. The IBAR would only apply to the additional income arising from the new business.

##### 5.1.1.1 Design Features

The IBAR will apply to demonstrably incremental business activity. The decision of the Minister to designate a new (to Australia) business activity of a company will be based on the value (in jobs created and economic activity) to Australia of that activity being based here rather than elsewhere. For example, a financial services business that moves its regional custodial or foreign exchange trading business to Australia, the Asia division of a MedTech company that moves its regional headquarters here or a software development business that moves its operations to Australia.

The Committee notes the role of the Prime Minister's Special Envoy for Global Business and Talent Attraction in attracting such moves and suggests that the Special Envoy and Austrade be encouraged to make recommendations as to what businesses may merit being designated as Qualifying Businesses.

The IBAR could include the following features:

- (a) Granting a tax rebate that would reduce the tax rate on Qualifying Business to the level paid in the jurisdiction (if applicable) in which such activity was previously based, but with a floor of 12.5% or such other rate as is consistent with the OECD acceptable BEPS Pillar 2 Global Minimum Tax Rate (which is yet to be determined).
- (b) Qualifying activities would include the full range of financial services activities including investment management, borrowing/lending activities, treasury activities, hedging activities, leasing activities, custodial and settlement activities as well as Fintech activities, being any business that uses technology to enhance or automate financial services and related processes.
- (c) Qualifying Business activities cannot have been conducted in Australia, other than incidentally, for at least 3 years prior to application being made (i.e they must be genuinely incremental).

- (d) To qualify for the IBAR, businesses will need to show increased employment, that is to create at least five new FTE jobs in the first year of eligibility. In the second and later years businesses would need to increase FTE headcount by 10% over the prior year's FTE headcount to be eligible for IBAR in the later year or years.
- (e) Grant the Minister a regulation-making power to add to the list of IBAR qualifying activities to allow regime flexibility to adapt to changing market practices.
- (f) The Minister (or his/her delegate) would confer IBAR qualification rather than the ATO.
- (g) The cost of the IBAR tax concession per business would be capped to limit the cost of the concession to the Government and to minimise risk of being considered a harmful tax practice by the OECD. This cap could be by reference to the amount of the rebate received by each Qualifying Business or by reference to an aggregated turnover type test. The suggested IBAR rebate cap is A\$10 million per annum for each eligible business.
- (h) The IBAR would have a sunset clause of 7 years for any activity.
- (i) The incremental or additional taxable income from eligible activities that would be eligible for the IBAR would be calculated in accordance with the existing rules as to how taxable income is generally calculated in the income tax law but without any special deductions. Issues to do with allocation of expenses to the IBAR eligible vs non IBAR eligible business could be dealt with by rules similar to those that apply to the allocation of OBU expenses. There are some issues for some taxpayers with using these OBU expense allocation rules which could be addressed during the design phase of the IBAR regime.
- (j) Financial services businesses would not be able to claim the IBAR and the OBU concession in relation to the same income. That is, taxable income which is subject to OBU treatment may not also be subject to the IBAR concession and vice versa.
- (k) The regime would be elective and only provide a rebate for those businesses which have a positive taxable income. For a business that has carried forward losses pre electing into IBAR, they will not be able to carry forward those losses into the IBAR regime and should recoup those prior to electing into the IBAR.
- (l) Anti-avoidance rules will be needed to ensure an employer does not (i) transfer existing employees from another part of its business to meet the five new employee/10% increase in headcount test or (ii) or retrench employees and then recruit new employees, so an overall incremental number test will be required.

### 5.1.2 BACKGROUND

The Committee believes that the IBAR will encourage global financial institutions and other companies to reconsider Australia as the best location for AsiaPac business than can be run from any part of the Asia time zone. By removing the tax disadvantage for a meaningful period of time, companies are able to focus on the other advantages of an Australian location.

It is important to note that the IBAR only applies to new business and therefore results in incremental tax revenue which would otherwise not be collected.

The establishment of a new tax regime is especially important given the Treasury has committed to amend the current OBU regime to ameliorate the OECD's concerns about the OBU constituting a harmful tax practice, which could threaten the OBU regime.<sup>80</sup>

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<sup>80</sup> Frydenberg, J. (Treasurer) 2018, *Amending Australia's Offshore Banking Unit Regime*, Media Release, 25 October.

### **5.1.3 ECONOMIC BENEFIT**

The IBAR regime will allow Australia to leverage its substantial "non-tax" benefits to attract talented individuals, and the businesses these individuals conduct, to operate from Australia. As the IBAR only applies to businesses to the extent they increase payroll and increase staffing, this would lead to an increase in employment in the financial services and Fintech industries. To the extent that foreign businesses relocate to Australia as a result of the IBAR, it would increase economic activity and jobs in Australia, and will lead to increased activity in supporting industries such as fund administration, accounting and legal services. The concessional tax rate to incremental activity will also allow Australia to compete with corporate tax rates in other jurisdictions.

### **5.1.4 EXPECTED BUDGET COST**

It is expected that the IBAR should not give rise to a substantial net cost to revenue due to:

- (a) the design features of the IBAR such as the capping of the amount of concession per entity;
- (b) the fact that the concession only applies to incremental activities; and
- (c) the additional tax revenues arising from incremental increases in employment (including PAYG on salaries and payroll tax).

## 5.2 Australian Financial Services (AFS) Licence

### RECOMMENDATION 7:

ASIC to fast-track an AFS licence for any business that already has an SFC, FCA or MAS licence for the same activities (within 2 months of application unless unsuitable).

### 5.2.1 OVERVIEW

A fast-track process should be introduced for applications for an AFS licence by foreign businesses currently holding a Hong Kong Securities and Futures Commission (**SFC**) licence, a UK Financial Conduct Authority (**FCA**) licence or a Singapore Monetary Authority of Singapore (**MAS**) licence and being in good standing with that regulator. The applicant would need to demonstrate that it has had the existing SFC/FCA/MAS licence for at least 3 years and that there are no pending investigations or findings of bad conduct against it by that local regulator.

The fast-track processing time should be a maximum of 2 months with the applicant receiving the foreign AFS licence during the 2 month period. The only exception from the 2 months processing time is if ASIC has a reason as to why the applicant should not hold a foreign AFS licence in Australia.

The fast-track process should initially apply to holders of equivalent licences in Hong Kong, the UK and Singapore and for wholesale activities, rather than retail business. Thereafter, and if appropriate, it could roll out to foreign businesses holding a licence under other overseas regulatory regimes that ASIC deems as sufficiently equivalent to Australia's regime.

### 5.2.2 BACKGROUND

#### 5.2.2.1 New AFS Licensing Regime

A 2 year transition to the new AFS licensing regime commenced on 1 April 2020.<sup>81</sup> The sufficient equivalent relief exemption that was frequently relied upon by foreign businesses to operate without holding an AFS licence, will no longer be available under the new licensing regime.<sup>82</sup>

Within the 2 year transitional period, a foreign business that intends to conduct a financial services business in Australia after 1 April 2022, must apply for either a foreign AFS licence, a standard AFS licence or rely on the funds management services relief. A foreign business that relied on a sufficient equivalent relief exemption is able to continue to rely on the exemption until 31 March 2022 or until it has been granted a foreign AFS licence, whichever is earlier.

If by the end of the transitional period an existing foreign business does not apply for an AFS licence or rely on the funds management relief, it must cease carrying on a financial services business in Australia or limit its financial services business in Australia to what is exempt from requiring an AFS licence. Table 2 provides an overview of the new AFS licensing regime for foreign businesses.<sup>83</sup>

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<sup>81</sup> Australian Securities & Investments Commission 2020, *Regulatory Guide 176 – Foreign Financial Services Providers*, Australian Securities & Investments Commission, <<https://download.asic.gov.au/media/5689975/rg176-published-10-march-2020-20200727.pdf>>.

<sup>82</sup> Australian Securities & Investments Commission 2020, *Foreign Financial Services Providers: Practical Guidance on Transitional Arrangements*, Australian Securities & Investments Commission, <<https://asic.gov.au/for-finance-professionals/afs-licensees/applying-for-and-managing-an-afs-licence/licensing-certain-service-providers/foreign-financial-services-providers-practical-guidance-on-transitional-arrangements/>>.

<sup>83</sup> Australian Securities & Investments Commission 2020, *Regulatory Guide 176 – Foreign Financial Services Providers*, Australian Securities & Investments Commission, pp. 5-6, <<https://download.asic.gov.au/media/5689975/rg176-published-10-march-2020-20200727.pdf>>.

**Table 2**

Regulatory arrangement	Features
Foreign AFS Licence	<p>A foreign business is eligible if it is regulated by an overseas regulatory regime that ASIC has assessed as being a sufficiently equivalent regime</p> <p>Can only provide financial services to wholesale clients in Australia</p> <p>Exempt from certain provisions of the Corporations Act Chapter 7</p> <p>Applications opened on 1 April 2020</p>
Standard AFS Licence	<p>Applies if a foreign business is not eligible for a foreign AFS licence, the funds management relief, and no other licensing exemption applies</p> <p>Licence may permit providing financial services to both retail and wholesale clients in Australia</p> <p>Must comply with the general obligations under Corporations Act s 912A, all the applicable provisions of the Corporations Act and the Corporations Regulations</p>
Funds management relief	<p>Applies to a foreign business that is carrying on a financial services business only because of the operation of Corporations Act s 911D in relation to providing "funds management financial services" to certain types of professional investors in Australia, provided it does not need to comply with Corporations Act s 911A(1)</p> <p>A foreign business does not need to hold an AFS licence</p> <p>Commences on 1 April 2022</p>

#### 5.2.2.2 Moving Businesses to Australia

A fund, or other financial business, that moves from Hong Kong, Singapore or London would, under current ASIC policies, need to apply for a standard AFS licence as a new entity or apply for a foreign AFS licence. In the Committee's view, it would be preferable to encourage suitable entities to obtain a full standard AFS licence and this is best done by making this process quick and easy for the right entities. The regulatory frameworks in these three markets are reasonably comparable to Australia and have a shared history and common law basis. While the precise rules diverge, the overall standard of supervision is considered to be comparable.

The Committee therefore recommends that, provided an entity from these three jurisdictions has been regulated for at least three years and has not been subject to any censure or investigation, the entity should receive 'fast track' treatment. This would involve a deemed automatic licensing two months after application, unless ASIC determines that there is a reason that this should not be provided. This Recommendation is intended to reduce the 'friction' involved in moving domicile to Australia. By creating a fixed timeframe and making registration the default, the Committee believes that Australia will become more attractive as a location to base activity.

#### 5.2.3 ECONOMIC BENEFIT

This Recommendation would reduce the regulatory obligations and the compliance costs for businesses to receive a licence to be able to operate in Australia, especially where they may wish to relocate activities currently being conducted in Hong Kong, London or Singapore. In



addition, it would promote organic business growth and employment, by providing more certainty and an expedited process for foreign businesses that are looking to expand their operations and activities to Australia.

#### **5.2.4 EXPECTED BUDGET COST**

This Recommendation can be achieved with existing resources of the responsible agency and is deemed to be immaterial to the Budget by the Parliamentary Budget Office.

## 5.3 Significant Investor Panel

### RECOMMENDATION 8:

Establish a Significant Investor Panel within the ATO that can provide rapid rulings and decisions on issues associated with making new investment of greater than A\$100 million in Australia.

#### 5.3.1 OVERVIEW

The Committee believes that consideration should be given to establishing a Significant Investor Panel, similar to the Part IVA Panel, constituted via a mix of ATO and external personnel, to guide, assist and direct both the ATO and taxpayers alike, on how best to proceed with the major tax issues connected with any significant investor proposal so as to optimise both timeliness of decision making and optimum national interest outcomes.

Without being too specific on how the Significant Investor Panel would operate, we believe the following matters and associated "straw man model" are worthy of consideration:

- (a) The Panel is eligible to consider any tax matters referred to it by the ATO, or by a taxpayer in the event of a disputed ATO response or by agreement with the ATO, in relation to new investment proposals over a determined threshold, for example A\$100 million, in aggregate investment.
- (b) The Panel is able to give guidance to the ATO and taxpayers on any aspect of the proposal to help facilitate a decision. The tax matters involved can include items such as whether the taxpayer qualifies for certain tax incentives or concessions but should not be limited to this.
- (c) The Panel's view should, as a matter of practice, be binding on the ATO. The investor would have a right to challenge an unfavourable decision through the usual legal channels or mechanisms.
- (d) The Panel to be based on a Part IVA Panel model, with flexibility for different members with varying skill sets to be asked to hear specific cases where those skill sets may be useful.

#### 5.3.2 BACKGROUND

If Australia is to make it easy for new significant investors to be committed resulting in increased employment, the current ATO decision processes need to be modernised to global best practice.

Currently, significant investor decisions are often tied up awaiting ATO rulings or decisions. As a result, decision making timeframes are often blown out and outcomes can therefore be inconsistent with good economic policy. This is in contrast to countries such as the UK and Singapore who have proactive systems in place to encourage timely and constructive interactions with their revenue authorities to maximise the potential for favourable economic outcomes and in a timely manner.

Historically, one model within the existing ATO framework which has proven to be useful in dealing with the concerns mentioned earlier in regard to tax avoidance, is the use of the Part IVA Panel which comprises members of both ATO personnel and external professionals to guide and assist the ATO and taxpayers alike in dealing with possible tax aggressive arrangements.

Note the current Part IVA Panel, known as the GAAR Panel (**General Anti Avoidance Review**), operates on the basis that the panel's role is purely consultative (it has no statutory basis). It does not make the relevant decision, but its advice is taken into account by ATO decision

makers. The panel does not investigate or find facts or arbitrate disputed contentions. It provides its advice on the basis of contentions of fact which have been put forward by ATO staff and by the taxpayer. The ATO decision maker is not bound to follow the advice of the GAAR panel.

#### **5.3.3 ECONOMIC BENEFIT**

This Recommendation would provide a streamlined process whereby companies can obtain binding certainty on the taxation outcomes of their investment. This can provide greater certainty and clarity for investors, allowing them to make faster investment decisions. This could lead to increased investment in Australian businesses.

#### **5.3.4 EXPECTED BUDGET COST**

This Recommendation can be achieved with existing resources of the responsible agency and is deemed to be immaterial to the Budget by the Parliamentary Budget Office.

# Attracting Founders & Talent to Australia





## 6. Attracting Founders & Talent to Australia



In practice, one of the key drivers of more job-creating business activity in Australia is that founders of businesses need to want to base themselves and their families here and for senior managers of large globally active companies to want to be personally based here. Where activities and people are mobile, the attraction of key individuals drives the subsequent growth of teams and business lines around them.

If Australia can attract the best entrepreneurs and skilled talent then they will employ people and use local services, with a multiplier effect on business activity overall. Growth businesses, particularly in the new economy, also have a need for people with particular technology skills that are not always available in Australia. Once attracted to Australia, such people also educate younger Australians in these skills.

Attracting people is therefore a key driver for attracting businesses.



## 6.1 Tax on Senior Staff and Entrepreneurs

### RECOMMENDATION 9:

Introduce a Days-in Days-out (DIDO) system for taxing senior staff and entrepreneurs running Regional or Global businesses that employ >5 people in Australia.

#### 6.1.1 OVERVIEW

Australian tax should be payable only on Australian-sourced employment income. This would include an apportionment of employment remuneration to represent income received in performance of duties that is sourced to Australia vs duties performed outside of Australia.

This would bring Australia into line with most other countries with which we compete for financial services and as regional headquarters. Note that taxation of other personal and investment income would not be impacted by this proposal, remaining as currently legislated.

#### 6.1.2 BACKGROUND

The personal tax position of people running businesses is an important determinant of where mobile business activity is based. The complexity of tax for such people discourages many businesses from having their headquarters in Australia and therefore leads to less business, lower business tax revenue and lower employment than would be the case if Australia were the regional headquarters.

This Recommendation would allow Australia to match the United Kingdom, New Zealand and most competitor jurisdictions in Asia by ensuring that people who run Asian or Global businesses out of Australia are not disadvantaged by doing so. Tax would be payable by such people on Australian sourced income but no longer on income attributable to work done in other countries. At the present time, people in regional roles have an encouragement to avoid an Australian base and the Australian revenue suffers as a result. This proposal would redress this.

##### 6.1.2.1 The Issue

Companies and investors wanting to establish business operations in Australia are discouraged by the adverse tax implications for their key personnel.

- (a) Prior to 2006, personal tax in Australia was entirely binary. Non-Residents paid tax only on Australian-sourced income. Deemed "Residents" paid tax on Global Income (including capital gains on investments) even if they spent much of their time outside Australia.
- (b) There is a lack of clarity around the definition of Resident vs Non-Resident which further compounds the risk for people contemplating basing operations in Australia.<sup>84</sup> In practice this often means that senior executives and founders avoid spending more than 90-100 days of a year in Australia, and base themselves elsewhere, to avoid the potential opaque application of the Residency rules.

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<sup>84</sup> The Board of Taxation reported on the complexities of the existing residency rules and concluded the rules no longer reflect modern global work practices, impose an inappropriate burden on taxpayers to self-assess their position and are an increasing area of dispute for taxpayers and the ATO because of the subjectivity of the tests. Board of Taxation 2016, *Self-Initiated Review of the Income Tax Residency Rules for Individuals*, Board of Taxation, <<https://taxboard.gov.au/consultation/self-initiated-review-of-the-income-tax-residency-rules-for-individuals>>.

- (c) Temporary tax resident rules<sup>85</sup> were introduced in 2006 with the objectives of:
  - (i) attracting internationally mobile skilled labour to Australia by providing a tax exemption on most non-Australian source income; and
  - (ii) promoting Australia as a regional centre business location by reducing the costs to Australian business of importing skilled foreign workers to Australia.<sup>86</sup>
- (d) The temporary resident rules have been successful, but arguably more so in achieving the first objective than the second.
- (e) A more targeted approach towards encouraging foreign investment to support Australian economic growth and increasing jobs for Australians could be supported through initially building on the success of the 2006 changes to incentivise senior executives managing or establishing regional headquarters in Australia.

#### 6.1.2.2 Temporary tax residency

Broadly, the temporary resident rules modify the tax rules for foreign individuals who become Australian tax residents and would otherwise be liable to pay Australian tax on worldwide income and assets.

The temporary resident rules provide a tax exemption for all ordinary and statutory income from a non-Australian source and net capital gains from assets that are not taxable Australian property.

The exemption does not, however, currently extend to remuneration received for employment performed whilst a temporary resident.

To qualify as a temporary resident, the individual must:

- (a) hold a temporary visa granted under the *Migration Act 1958*;<sup>87</sup> and
- (b) must not be an Australian resident, or have a spouse who is an Australian resident, under the *Social Security Act 1991*.<sup>88</sup>

There is no time limit on the temporary resident concessions as they are linked to migration status.

Consistent with the emphasis of this Report on simplicity, we recommend that the Australian version simply allow the Taxpayer to claim a rebate in their tax return to the extent of days worked outside of Australia (a log book or travel records can substantiate this based on the simple rules used successfully in many other jurisdictions).

There are three additional integrity measures to make sure that the exemption has only very targeted application:

- (a) There must be a minimum of 90 days worked outside Australia.

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<sup>85</sup> *Income Tax Assessment Act 1997* (Cth) subdivision 768-R.

<sup>86</sup> Explanatory Memorandum, Tax Laws Amendment (2006 Measures No. 1) Bill 2006.

<sup>87</sup> The most common work-related visa is the subclass 482 Temporary Skills Shortage visa, which allows an employer to sponsor a skilled foreign worker to fill a position that they can't find an equally skilled Australian worker to fill.

<sup>88</sup> Social services are generally only available to Australian residents as defined under the *Social Security Act 1991* (Cth) which refers to someone who resides in Australia and is an Australian citizen, a permanent visa holder or a protected SCV holder (a New Zealand citizen who was in Australia on and before 26th Feb 2001).

- (b) The person must have a "regional role" (i.e. as the head of an Asia-Pacific wide business or in some other way required to supervise operations in multiple countries).
- (c) It only applies to Employment Income (i.e. salary, bonus and gain on employee shares) and not on any other Australian sourced (property or other) income.

#### **6.1.2.3 Revenue protection and equality**

It is important to design the system to make sure that it attracts investment in Australia but does not provide revenue leakage.

For this reason, the Committee believes the DIDO provisions should initially apply only to Temporary Resident visa holders who, by definition, would otherwise not be Resident in Australia. Other countries do not limit it to such visa holders but the degree of repatriation of Australian citizens at present, due to the COVID-19 pandemic, is sufficiently strong that the Committee believes allowing them to use the DIDO provisions in the near term is unnecessary.

The Committee believes, however, that it would be appropriate from 2024 to extend this relief also to Australian citizens who have been long term residents offshore as it is in the national interest to attract such people back to Australia if they will run APAC businesses from Australia and employ people here. To ensure the integrity of the tax measure, the relief should only be open to such a person if they have not been deemed an Australian Tax Resident for any tax year in the last 5 tax years.

#### **6.1.2.4 Comparison to other jurisdictions**

Countries such as the United Kingdom, Singapore, Thailand, Malaysia and Hong Kong have similar concessional systems in place, which have operated for many years.

Variations exist in each jurisdiction but this is typically managed using one of the following bases:

- (a) a remittance basis;
- (b) an annual days limit; or
- (c) a general exclusion for income under a sourcing principle.

#### **6.1.3 ECONOMIC BENEFIT**

Introducing a personal tax concession regime for employees temporarily based in Australia or returning to Australia for the first time in many years aligns Australia's personal tax regime with many regional financial hubs worldwide who offer DIDO concessions (or equivalent).

Australia's tax laws currently have bright-line tests for residents that are no longer fit-for-purpose, as they were developed before executive mobility became commonplace. Introduction of a DIDO system would recognise that executives operate in multiple jurisdictions and ensure that tax revenue is aligned to economic output in Australia. This would attract new talent, facilitate the return of skilled Australian expatriates who have not been an Australian tax resident for a period of time and increase attractiveness for business investment. In turn, this would raise the income tax base and Australia's industry and country profile.

A DIDO would also be philosophically consistent with the Board of Taxation findings that a "days count" test is a preferable residency starting point rather than the current "resides test" – as it would remove significant complexity.<sup>89</sup>

Since anyone working significantly less than 180 days in Australia would be unlikely to be considered an Australian Tax Resident, the actual number of people to which the Rebate applies would be low (mostly only those who spend most of the year in Australia and employ people here but travel for 90-180 days running major operations outside Australia).

Though small in number, these are the people who often decide where business operations are based, where people are employed and where external services are contracted. It is in the Australian national interest that these occur in Australia rather than Singapore, Hong Kong or elsewhere.

#### **6.1.4 EXPECTED BUDGET COST**

Executives that operate in multiple jurisdictions often structure their arrangements so as not to crystallise tax residency in a particular income year and/or base themselves in a place that does not trigger residency in a high-tax jurisdiction.

Accordingly, Australia's tax revenue under a DIDO arrangement may increase to the extent that such executives are not already subject to Australian tax but move residence to Australia following the introduction of the DIDO rules.

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<sup>89</sup> Board of Taxation 2017, Review of the Income Tax Residency Rules for Individuals, Board of Taxation, <<https://taxboard.gov.au/sites/taxboard.gov.au/files/migrated/2018/07/T307956-income-tax-res-rules.pdf>>.

## 6.2 Significant Investor Program

### RECOMMENDATION 10:

Amend the Significant Investor Visa (SIV) regime to simplify and provide greater focus on job-creation.

#### 6.2.1 OVERVIEW

Changes to the SIV regime in 2015 mandated that applicants invest:

- (a) at least A\$500,000 in venture capital and growth private equity funds which invest in start-ups and small private companies;
- (b) at least A\$1.5 million in approved managed funds. The managed funds must invest in emerging companies; and
- (c) a "balancing investment" of at least A\$3 million in managed funds.

This made the proposition more risky and the visa therefore less attractive for many globally-mobile entrepreneurs, and has only an indirect link with jobs being created. There have also been issues with some of the funds and structures in which business investors have invested which has made Australia less attractive.

The Committee therefore proposes to allow a broader and more flexible range of investments to qualify for the SIV but with protections to ensure that funds are only invested in directly-managed and AFS-regulated funds of scale that are "widely held", and that investors cannot borrow against these investments. The visa would also require that the visa holder demonstrate a plan to create at least 5 new jobs in Australia and that they have a basic level of English proficiency.

#### 6.2.2 BACKGROUND

In October 2014, the Prime Minister announced changes to the Significant Investor stream and introduction of a new Premium Investor stream in the subclass 188 and subclass 888 visas, as part of the Government's Industry Innovation and Competitiveness Agenda.<sup>90</sup>

The purpose of the SIV and the introduction of the Premium Investor stream were to attract more investment into Australia and to attract entrepreneurial skill and talent. The changes to the SIV regime were intended to encourage investment into innovative Australian ideas and emerging companies, supporting sustainable growth, productivity and job creation as part of a broader competitiveness agenda.

Since introducing the new regime in 2015, we have seen an annual decrease in the total primary visa grants issued.<sup>91</sup> As of June 2020, 1645 SIVs were granted subject to regulations prior 1 July 2015 while 704 SIVs were granted subject to regulations post 1 July 2015.

In the 2015-16 financial year, 528 primary visas (subject to regulations prior to 1 July 2015) and 24 primary visas (subject to regulations post 1 July 2015) were granted. In the 2018-19 and 2019-20 financial year, 191 and 135 primary visas (subject to regulations post 1 July 2015) were granted, respectively and less than 5 primary visas (subject to regulations prior to 1 July 2015) were granted for both years.

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<sup>90</sup> Abbot, T. (Prime Minister) 2014, *An Action Plan for Australia's Future*, Joint Media Release, 14 October, <<https://www.minister.industry.gov.au/ministers/macfarlane/media-releases/action-plan-australias-future>>.

<sup>91</sup> Department of Home Affairs 2020, *Significant Investor Visa Statistics*, Department of Home Affairs <<https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/work/significant-investor-visa>>.



Feedback from the private economy noted the changes have made the regime less attractive due to the prescriptive investment mandate and/or lack of suitable investments or investment products to satisfy both the investor and the requirements of the visa subclass.

A simplification of compliant investments through the introduction of a water mark test such as job creation, creates a direct link between investment and job creation – a key objective of the former and current investor visa regimes.

In addition to this, expanding the suite of potential investments which can be invested into allows investors to better deploy capital domestically in accordance with an investors risk appetite and sphere of competence.

### 6.2.3 ECONOMIC BENEFIT

Since its inception in 2012, the SIV program has brought over A\$11.745 billion worth of investments into Australia.<sup>92</sup> The program has attracted 2,000 foreign high net-worth investors who have made material contributions to the Australian economy.

A 2019 Deloitte Access Economics study into the SIV program found 86% of respondents had enabled innovation in Australia through their investments by either bringing a new product or service (36%), bringing a new business model (22%), or bringing new processes for production or investment processes (28%).<sup>93</sup> Industries to benefit from the investment were found to be diverse from biotechnology to childcare services.<sup>94</sup>

The SIV program attracts diverse investors and access to foreign networks. SIVs create business networks in Australia that would not have otherwise been established, 46% of respondents from the Deloitte study indicated they collaborate with business partners in their country of origin as an important factor influencing their decision to establish and maintain investments in Australia.<sup>95</sup>

### 6.2.4 EXPECTED BUDGET COST

We expect that this Recommendation can be achieved with existing resources of the responsible agency.

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<sup>92</sup> Department of Home Affairs 2020, *Significant Investor Visa Statistics*, Department of Home Affairs <<https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/work/significant-investor-visa>>.

<sup>93</sup> Deloitte 2019, *Impact of the Significant Investor Visa Program - A Long-Term Proposition for Australia*, Deloitte, p. 32, <<https://www2.deloitte.com/au/en/pages/deloitte-private/articles/impact-significant-investor-visa-program.html>>.

<sup>94</sup> Deloitte 2019, *Impact of the Significant Investor Visa Program - A Long-Term Proposition for Australia*, Deloitte, pp. 28, 33, <<https://www2.deloitte.com/au/en/pages/deloitte-private/articles/impact-significant-investor-visa-program.html>>.

<sup>95</sup> Deloitte 2019, *Impact of the Significant Investor Visa Program - A Long-Term Proposition for Australia*, Deloitte, p. 34, <<https://www2.deloitte.com/au/en/pages/deloitte-private/articles/impact-significant-investor-visa-program.html>>.

# Better Balance of Regulation and Encouragement for Investment





## 7. Better Balance of Regulation and Encouragement for Investment

### AUSTRALIA'S FINANCIAL REGULATORY ENVIRONMENT

Regulators of the financial sector play an important role in paving the path for Australia to become a leading financial centre. Regulators in Australia have prioritised financial stability, compliance, associated risks and investor protection, particularly following the global financial crisis. Insufficient attention, however, is given to the economic value of financial services and how to enhance the international competitiveness of Australia's financial sector.

Australia's financial system regulators comprise:

- (a) Australian Prudential Regulation Authority (**APRA**): Australia's financial system prudential regulator;
- (b) Australian Securities and Investment Commission (**ASIC**): Australia's integrated corporate, markets, financial services and consumer credit regulator;
- (c) Reserve Bank of Australia (**RBA**): Australia's central bank;
- (d) Australian Government Department of the Treasury (**Treasury**): Australia's central policy agency;
- (e) Australian Transaction Reports and Analysis Centre (**AUSTRAC**): Australia's anti-money laundering and counter-terrorism financing agency and financial intelligence unit; and
- (f) Australian Taxation Office (**ATO**): Australia's principle revenue collecting agency.

APRA, ASIC, RBA and the Treasury together form the Council of Financial Regulators.

#### APRA

As shown by APRA's vision, mandate and functions in Table 3, APRA's primary focus is on supervising financial institutions and protecting users of financial services. Promoting Australia's international competitiveness to become a top financial centre is not an objective nor function of APRA.

Table 3

VISION	MANDATE	FUNCTIONS
Deliver a sound and resilient financial system, founded on excellence in prudential supervision	Protect the Australian Community by establishing and enforcing prudential standards and practices designed to ensure that, under all reasonable circumstances, financial promises made by institutions supervised are met within a stable, efficient and competitive financial system.	<p>License banking, insurance and superannuation businesses</p> <p>Supervise institutions across banking, insurance and superannuation</p> <p>Protect the interests of depositors, policyholders and superannuation fund members</p>

Establish prudential standards that regulated institutions must comply with

Promote financial system stability by working closely with ASIC, RBA and the Treasury

Act as a national statistical agency for the financial sector, collecting data both for its own uses and on behalf of the RBA and Australian Bureau of Statistics

## ASIC

Similar to APRA, Table 4 shows that ASIC's efforts go towards consumer and investor protection, financial system stability, market integrity and ensuring that entities comply with the law. The purpose and role of ASIC does not include supporting international competitiveness of Australia's financial sector. This has led to regulations increasing regulatory burden and reducing the attractiveness of doing business in Australia.

Table 4

VISION	MANDATE	FUNCTIONS
Fair, strong and efficient financial system for all Australians	Use regulatory tools to: <ul style="list-style-type: none"><li>change behaviours to drive good consumer and investor outcomes</li><li>act against misconduct to maintain trust and integrity in the financial system</li><li>promote strong and innovative development of the financial system</li><li>help Australians to be in control of their financial lives</li></ul>	Maintain, facilitate and improve the performance of the financial system and entities in it  Promote confident and informed participation by investors and consumers in the financial system  Administer the law effectively and with minimal procedural requirements  Receive, process and store, efficiently and quickly, information we receive  Make information about companies and other bodies available to the public as soon as practicable  Take whatever action it can, and which is necessary, to enforce and give effect to the law

## RBA

As Australia's central bank, the RBA's main focus is to promote overall financial system stability, which is reflected in Table 5. Like other regulators in Australia, it is not the RBA's role or function to make Australia's financial sector more internationally competitive.



Table 5

VISION	MANDATE	FUNCTIONS
Be a world-leading central bank that is trusted for our analysis, service delivery and policies	Promote the economic welfare of the Australian people through monetary and financial policies and operations	<p>Conduct monetary policy in pursuit of full employment and price stability</p> <p>Maintain a strong and stable financial system</p> <p>Issue the nation's currency</p> <p>Support a secure, stable and efficient payments system</p> <p>Deliver efficient and effective banking services to the Australian Government</p> <p>Manage Australia's gold and foreign exchange reserves</p>

### The Treasury

The Treasury provides advice to the Federal Government on numerous issues and assists with formulation and implementation of policy, which may include policies to improve the international competitiveness of Australia's financial sector. However, improving the international competitiveness of Australia's international competitiveness is not a clearly articulated goal of the Treasury. The Treasury's mandate and functions are summarised in Table 6.

Table 6

MANDATE	FUNCTIONS
Improve the wellbeing of the Australian people by providing sound and timely advice to the Government, based on objective and thorough analysis of options, and by assisting Treasury ministers in the administration of their responsibilities and the implementation of government decisions	<p>Analyse policy issues</p> <p>Provide policy advice to the Federal Government on areas including the economy, budget, taxation, financial sector and foreign investment</p>

### AUSTRAC

AUSTRAC is primarily concerned with ensuring that the financial system is secure by preventing criminal activity such as money laundering, terrorism financing and other serious crime, as described in Table 7. While a financial system that is free from criminal activity contributes to the attractiveness of Australia's financial sector, without more pro-business regulations and taxes this is not enough to position Australia as a leading financial centre.



Table 7

VISION	MANDATE	FUNCTIONS
A financial system free from criminal abuse	To build resilience in the financial system and use financial intelligence and regulation to disrupt money laundering, terrorism financing and other serious crime	<p>Oversees compliance with anti-money laundering and counter-terrorism laws</p> <p>Collects and analyses financial transaction data through financial transaction reports to generate financial intelligence</p> <p>Identifies from financial intelligence financial transactions linked to crime</p> <p>Shares financial intelligence with law enforcement and security agencies</p>

### ATO

The ATO, as Australia's revenue collecting agency, has the main responsibility of administering Australia's tax and superannuation systems. As shown in Table 8, it is not an objective or responsibility for the ATO to promote Australia as a financial centre.

Table 8

VISION	MANDATE	FUNCTIONS
Be a leading tax and super administration, known for its contemporary service, expertise and integrity	Contribute to the economic and social wellbeing of Australians by fostering willing participation in Australia's tax and superannuation systems	<p>Collect revenue</p> <p>Administer the goods and services tax (GST) on behalf of the Australian states and territories</p> <p>Administer a range of programs that provide transfers and benefits to the community</p> <p>Administer the major aspects of Australia's superannuation system</p> <p>Being custodian of the Australian Business Register</p>

## COMPARISON TO MAS AND CITY OF LONDON

### Singapore - Monetary Authority of Singapore

The Monetary Authority of Singapore (**MAS**) is Singapore's central bank and sole financial regulator with regulatory oversight over the financial services industry.

A crucial distinction between the MAS and Australia's regulators is that one of MAS's core objectives is to develop and promote Singapore as a global finance hub and MAS has been able to successfully balance this objective with its other objectives of protecting consumers and investors and ensuring financial stability. MAS's focus on promoting Singapore as a leading financial centre has drawn individuals and companies to do business in Singapore and has underpinned Singapore's consistent ranking as one of the top 6 international financial centres. Table 9 details the vision, mission and functions of MAS.

Table 9

VISION	MANDATE	FUNCTIONS
A central bank of excellence	To promote sustained non-inflationary economic growth, and a sound and progressive financial centre	<p>Act as the central bank of Singapore, including the conduct of monetary policy, the issuance of currency, the oversight of payment systems and serving as banker to and financial agent of the Government</p> <p>Regulate and supervise the financial services industry</p> <p>Manage Singapore's foreign reserves and assets</p> <p>Work with financial industry to develop and promote Singapore as an international financial centre</p>

### Initiatives to develop international competitiveness of financial sector

For over 40 years, MAS has been developing and promoting Singapore as a regional and international financial centre by creating an environment that is conducive to capital flows, competition and innovation without compromising on its other objectives. Some initiatives that MAS has launched are listed in Table 10.

Table 10

Initiative	Description
Establishing the Fintech & Innovation Group ( <b>FTIG</b> ) <sup>96</sup>	FTIG sits within MAS and is responsible for regulatory policies and developing strategies to encourage use of technology and innovation in the financial services industry. FTIG comprises of:

<sup>96</sup> Monetary Authority of Singapore 2015, *MAS Set Up New Fintech & Innovation Group*, Media Release, 27 July, <<https://www.mas.gov.sg/news/media-releases/2015/mas-sets-up-new-fintech-and-innovation-group>>.

Initiative	Description
	<ul style="list-style-type: none"> <li>• Payments &amp; Technology Solutions Office, which is responsible for formulating regulatory policies and strategies for payment technologies and other technology solutions for financial services</li> <li>• Technology Infrastructure Office, which is responsible for regulatory policies and strategies for developing safe and efficient technology enabled infrastructures for the financial sector</li> <li>• Technology Innovation Lab, which finds cutting-edge technologies with potential to be applied in the financial industry and work with the industry and relevant parties to test innovative new solutions</li> </ul>
Fintech Regulatory Sandbox <sup>97</sup>	Allows firms (e.g. Fintech start-ups and financial institutions) that intend to conduct activities regulated by MAS to test innovative financial services and business models in the market for the duration of the sandbox within a safe and low-regulatory pressure environment
Industry Transformation Map (ITM) <sup>98</sup>	<p>Provides a strategic action plan for growth of Singapore's financial services industry and ensuring Singapore remains a top financial centre. Its growth targets are 4.3% value-added growth, 3,000 net jobs created with an additional 1,000 net jobs in Fintech and 2.4% productivity growth</p> <p>The ITM outlines business strategies, innovation and technology strategies, and talent and skills strategies</p>
Establishing a Financial Sector Development Fund (FSDF) <sup>99</sup>	<p>The FSDF was established under the MAS Act to be used for its objects and purposes including:</p> <ul style="list-style-type: none"> <li>• the promotion of Singapore as a financial centre</li> <li>• the development and upgrading of skills and expertise required by the financial services sector</li> <li>• the development and support of educational and research institutions, research and development programmes and projects relating to the financial services sector</li> <li>• the development of infrastructure to support the financial services sector in Singapore</li> </ul>

<sup>97</sup> Monetary Authority of Singapore 2020, *Overview of Regulatory Sandbox*, Monetary Authority of Singapore, < <https://www.mas.gov.sg/development/fintech/regulatory-sandbox>>.

<sup>98</sup> Kong, O. 2017, 'Staying on Top of Our Game', speech, presented at the Launch of the Financial Services Industry Transformation Map, Singapore, 30 October.

<sup>99</sup> *Monetary Authority of Singapore Act* ss 127 and 128.



Initiative	Description
Introducing Variable Capital Companies (VCC) <sup>100</sup>	VCC is a new corporate structure that overcomes challenges faced by existing collective investment schemes (e.g. unit trusts, partnerships) and encourages funds to be domiciled in Singapore. A VCC can be set up as a standalone fund or umbrella fund with multiple sub funds. Benefits include, among others, limited liability due to segregation of sub-funds, flexibility over corporate structure, ease of distribution and reduction of capital and tax incentives
Providing grants under the VCC Grant Scheme <sup>101</sup>	Fund managers of VCCs can receive grants to reduce expenses related to incorporating or registering a VCC. The grant is equal to 70% of eligible expenses and capped at S\$150,000 for each application, with a maximum of 3 VCCs per fund manager
Launch of Sandbox Express <sup>102</sup>	Within 21 days of applying to MAS, firms (e.g. Fintech start-ups and financial institutions) that intend to conduct activities regulated by MAS can begin to test certain innovative financial products and services in the market within a safe and low regulatory pressure environment

<sup>100</sup> Monetary Authority of Singapore 2020, *MAS and ACRA Launch Variable Capital Companies Framework*, Monetary Authority of Singapore, Media Release, 15 January, <<https://www.mas.gov.sg/news/media-releases/2020/mas-and-acra-launch-variable-capital-companies-framework>>.

<sup>101</sup> Monetary Authority of Singapore, 2020, *MAS and ACRA Launch Variable Capital Companies Framework*, Monetary Authority of Singapore, Media Release, 15 January, <<https://www.mas.gov.sg/news/media-releases/2020/mas-and-acra-launch-variable-capital-companies-framework>>.

<sup>102</sup> Monetary Authority of Singapore 2019, *MAS Launches Sandbox Express for Faster Market Testing of Innovative Financial Services*, Media Release, 7 August, <<https://www.mas.gov.sg/news/media-releases/2019/mas-launches-sandbox-express-for-faster-market-testing-of-innovative-financial-services>>.

## United Kingdom – City of London

The City of London Corporation (**City of London**) is an independent governing body of the Square Mile, being the financial district of London and financial and commercial heart of the UK. Its vision and mandate is set out in Table 11.

Table 11

VISION	MANDATE
The City of London Corporation is the governing body of the Square Mile dedicated to a vibrant and thriving City, supporting a diverse and sustainable London within a globally-successful UK	Contribute to a flourishing society, support a thriving economy and shape outstanding environments by strengthening the character, capacity and connections of the City, London and the UK for the benefit of people who live, learn, work and visit

By way of comparison to Australian regulators, it is high priority of City of London to ensure that the UK's financial services industry is competitive into the future and to promote the UK's financial services industry to overseas markets. City of London's 2018-23 corporate plan, sets out City of London's goals and commitments to promote the UK as a leading financial centre. This is summarised in Table 12.

Table 12

Goals	Commitments
Have the world's best legal and regulatory framework and access to global markets	Promote regulatory confidence founded on the rule of law
	Influence UK and global policy and regulation and international agreements to protect and grow the UK economy
	Lead nationally and advise internationally on the fight against economic and cyber-crime
	Attract and retain investment and promote exports of goods and services across multiple global markets
Be a global hub for innovation in financial and professional services, commerce and culture	Support organisations in pioneering, preparing for and responding to changes in regulations, markets, products and ways of working
	Strengthen local, regional, national and international relationships to secure new opportunities for business, collaboration and innovation
	Preserve and promote the City as the world-leading global centre for financial and professional services, commerce and culture
	Promote London for its creative energy and competitive strengths
Have access to the skills and talent needed	Promote the UK as open to business and enterprise and for its world-leading education offer
	Promote the City, London and the UK as attractive and accessible places to live, learn, work and visit



Goals	Commitments
Be digitally and physically well-connected and responsive	Champion access to global talent
	Identify future skills needs, shortages and saturations
	Champion investment in relevant skills and diverse talent pools
	Champion and facilitate a world-leading digital experience
	Develop and trial smart innovations and better manage demand
	Advocate ease of access via air, rail, road, river and sea
	Improve the experience of arriving in and moving through our spaces

### Initiatives to develop international competitiveness of financial sector

The work of City of London has contributed to the global success of the UK's financial services industry with London being recognised as a leading international financial centre and one of the best places to do business. City of London has implemented a number of initiatives to achieve this. These are listed in Table 13.

**Table 13**

Initiative	Description
Green Finance Initiative (GFI) <sup>103</sup>	<p>Launched by City of London and the UK government to create new opportunities for investors and strengthen the UK as a leading global green finance hub</p> <p>The first phase focuses on the following issues:</p> <ul style="list-style-type: none"> <li>improving the flow of projects generating green bonds in the UK and advocating for the development of a low-carbon infrastructure strategy</li> <li>enhancing transparency and accreditation standards so that market participants can have greater confidence in green products</li> </ul>

<sup>103</sup>

City of London 2016, *City Launches Initiative to Make London the World Leader in Green Finance*, City of London, <  
<https://news.cityoflondon.gov.uk/city-launches-initiative-to-make-london-the--world-leader-in-green-finance/>>.

Initiative	Description
Launch of Innovation and Growth Directorate (IG) <sup>104</sup>	<ul style="list-style-type: none"> <li>• better informing and incentivising the market, including through educational materials and assessing potential market incentives</li> </ul> <p>City of London launched IG as an internal team to strengthen the UK's competitiveness as a leading international financial centre by:</p> <ul style="list-style-type: none"> <li>• accelerating sustainable growth through financial and professional services innovation and the use of technology</li> <li>• boosting the competitiveness of the UK's world-class business environment</li> <li>• maximising market access for UK-based financial and professional services firms</li> <li>• promoting global recognition of the UK's world-leading financial and professional services offer in key markets</li> <li>• cultivating strong, strategic, outcome focussed relationships with key stakeholders</li> </ul>
Global City Campaign <sup>105</sup>	<p>A campaign website run by City of London to attract business, investment and talent to London and UK</p> <p>Uses factsheets, primary research, videos and case studies to promote the UK's financial and professional services offer</p>
Promoting the UK as a centre for financial risk management <sup>106</sup>	<p>Policy Chair of City of London visited Beijing to promote the UK's offer as a centre for financial centre risk management for multinational firms and as a place for firms to invest</p> <p>Launched report with PwC titled "The UK as a Centre for Financial Risk Management" to promote the UK's strengths in financial risk management and its high-quality ecosystem</p>

<sup>104</sup> City of London 2020, *The City of London Corporation – Support for Financial and Professional Services*, City of London, p. 12, <<https://www.cityoflondon.gov.uk/assets/Business/support-for-financial-and-professional-services.pdf>>.

<sup>105</sup> The Global City, <<https://www.theglobalcity.uk/>>.

<sup>106</sup> City of London 2020, *The City of London Corporation – Support for Financial and Professional Services*, City of London, p. 7, <<https://www.cityoflondon.gov.uk/assets/Business/support-for-financial-and-professional-services.pdf>>.

Initiative	Description
Maintaining UK-EU engagement <sup>107</sup>	City of London played a key role during post-Brexit in maintaining a positive line of communication between the UK and EU member states  City of London expanded team in Brussels in size and seniority
Support for Shanghai-London Stock Connect <sup>108</sup>	City of London has been working to further increase trade and investment flows between UK and China  City of London in 2019 made 3 publications showing UK as a leading offshore centre for RMB
Deepening relationships with key centres of the UK Financial and Professional services <sup>109</sup>	City of London proactively works with partner cities across the UK to convene local and regional stakeholders, identify shared priorities and build understanding of different firms' strengths to represent their interests in trade delegations and to international investors  In 2019, 11 cities were visited  City of London has hosted round-tables with UK firms. E.g. London-based round table for Manchester based Fintechs

This set of Recommendations is designed to reduce the regulatory complexity that discourages business from coming to Australia when it can be based in a simpler jurisdiction. There is, in particular, an overall perception in financial markets that Australian regulation is structurally sound but is “too complicated” and “too slow to respond” and many regional and global activities are not based here as a consequence.

The Recommendations below do not weaken investor protection and system stability (indeed these are positive attractions for businesses moving to Australia) but would establish a complementary focus on also facilitating investment and promoting international competitiveness, as previously recommended in the Johnson Report in 2009 but still not yet implemented.

<sup>107</sup> City of London 2020, *The City of London Corporation – Support for Financial and Professional Services*, City of London, p. 7, <<https://www.cityoflondon.gov.uk/assets/Business/support-for-financial-and-professional-services.pdf>>.

<sup>108</sup> City of London 2020, *The City of London Corporation – Support for Financial and Professional Services*, City of London, p. 7, <<https://www.cityoflondon.gov.uk/assets/Business/support-for-financial-and-professional-services.pdf>>.

<sup>109</sup> City of London 2020, *The City of London Corporation – Support for Financial and Professional Services*, City of London, p. 9, <<https://www.cityoflondon.gov.uk/assets/Business/support-for-financial-and-professional-services.pdf>>.



## 7.1 Sub-Committee of the Council of Financial Regulators

### RECOMMENDATION 11:

Establish a Sub-Committee of the Council of Financial Regulators (CFR) or Financial Regulator Assessment Authority (FRAA), with private sector representation, that will promote investment/competitiveness and balance the existing focus, which is solely on compliance and investor-protection.

### RECOMMENDATION 12:

The Sub-Committee of the CFR or FRAA to provide an annual report to Parliament that reviews existing rules for the sector and recommends how to simplify and adapt to changes in dynamic markets.

### 7.1.1 OVERVIEW

One of the key recommendations of the Johnson Report was to establish a Financial Centre Task Force.<sup>110</sup> There was a brief attempt to do so but it fell into disuse and has not been revived.

The Senate Select Committee on Financial Technology and Regulatory Technology also provided recommendations to enhance investment and competitiveness through the creation of a dedicated regulatory sub-committee.

A Sub-Committee of the CFR or FRAA should be established to promote Australia as a global financial centre. The key purpose and functions of the Sub-Committee of the CFR or FRAA will be to do the following:

- (a) Advise Federal Government on the state of Australia's competitiveness as a financial centre and exporter of financial services (having regard to developments in products and competitor jurisdictions).
- (b) Recommend to Federal Government ways that the financial sector in Australia can be more innovative and competitive, consistent with the policies of the Federal Government of the day. This will include the annual report referred to in the next Recommendation which will assess the efficacy of current legislation and regulation.
- (c) Foster innovation and competition in the financial sector.
- (d) Promote the Australian financial sector abroad. The City of London and MAS have investment-attraction and promotion mandates that complement the investor-protection roles of regulators in the UK and Singapore respectively. This has led to them becoming substantial centres for regional and global financial services activity.
- (e) Provide assistance to new entrants with navigating through Australia's regulatory framework.

The Sub-Committee of the CFR or FRAA should prepare and submit to the Parliament an annual report every year. The annual report should cover the existing regulations and taxes impacting the financial services industry and make recommendations on how they can be simplified to make Australia more internationally competitive.

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<sup>110</sup> Johnson Report, pp. 115-6.



### 7.1.2 BACKGROUND

Various consultations with the private economy has highlighted Australia's financial regulators need to do more in order to better support and foster a pro-innovation culture in financial services.

Recent policy initiatives such as ASIC's regulatory sandbox will go some way to improve the status quo, however more regulators such as ASIC, APRA and the RBA need clearer and more transparent metrics when it comes to driving innovation in financial services.

The Senate Select Committee on Financial Technology and Regulatory Technology in its September 2020 interim report recommended:<sup>111</sup>

***“the Australian Government establish a framework for the Council of Financial Regulators, supported by Austrade, to regularly consider and report on Australia's external competitive position in financial services, including measuring technology adoption and innovation.”***

The implication of this Recommendation would be a more dynamic and globally attractive place for financial services business.

### 7.1.3 ECONOMIC BENEFIT

There would be considerable benefit in having a centralised body of suitably-qualified people to evaluate and promote initiatives that enhance Australia's attractiveness as a financial centre. At present there is no centralised body to consider initiatives with a holistic perspective.

A Sub-Committee of CFR or FRAA with private sector representation would:

- (a) provide a more diverse view, allowing for more informed, focused and richer decision making;
- (b) facilitate better co-operation and enduring relationships between regulators and the industry;
- (c) balance the CFR and FRAA's existing focus on compliance and investor-protection with stakeholders' feedback – as well as providing greater input through direct representation by industry at the CFR or FRAA; and
- (d) allow faster escalation or awareness of emerging issues as industry has a voice at the CFR and FRAA.

The benefit of an annual reporting mechanism to Parliament would be that Australia's settings would be evaluated regularly to ensure that they are fit-for-purpose in terms of the business that is attracted to Australia and competitive with other jurisdictions.

### 7.1.4 EXPECTED BUDGET COST

Recommendation 11 and 12 can be achieved with existing resources of the responsible agency and is deemed to be immaterial to the Budget by the Parliamentary Budget Office.

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<sup>111</sup> The Senate Select Committee on Financial Technology and Regulatory Technology 2020, *Interim Report*, <[https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024366/toc\\_pdf/SelectCommitteeonFinancialTechnologyandRegulatoryTechnology.pdf;fileType=application%2Fpdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024366/toc_pdf/SelectCommitteeonFinancialTechnologyandRegulatoryTechnology.pdf;fileType=application%2Fpdf)>.

## 7.2 Regulating Financial Technology (Fintech) and Other Technology Sectors

### RECOMMENDATION 13:

Adopt "Bias to Yes" and "Bias to Competition" as over-riding principles for ASIC/APRA/Austrac etc. when regulating Fintech, RegTech and other Tech.

### 7.2.1 OVERVIEW

To continue to develop and promote Australia's Fintech sector, regulators in Australia need to adopt "bias to yes" and "bias to competition" principles when regulating the Fintech sector. The "bias to yes" and "bias to competition" principles encompass regulators being forward-thinking and dynamic. It involves understanding and addressing the regulatory challenges shared by Fintechs so that regulations are fit-for-purpose, not stifling innovation and entrepreneurship in the Fintech industry and conducive to competition. Collaboration with the Fintech industry is crucial to provide a platform for the Fintech industry to share their regulatory challenges and to co-create solutions in response to the challenges faced by the Fintech industry.

### 7.2.2 BACKGROUND

#### 7.2.2.1 Importance

The advancement of technology and growth of the digital economy globally have triggered a rapid expansion in new technology-driven entrants. Fintech has been the biggest disruptor to Australia's financial services industry. By applying cutting-edge technologies to the financial services industry and offering new and efficient ways to deliver financial services to customers, Fintech firms have been expanding competition, increasing efficiency of established players and encouraging the financial services industry to embrace technological innovation. The different sub-sectors of Fintech are set out in Figure 13.

As of 2020, there are over 800 active Fintech companies in Australia,<sup>112</sup> a significant increase from less than 100 in 2014 and 579 in 2017.<sup>113</sup> Consumer demand and awareness for Fintech has also been rising and is expected to increase as digital adoption becomes more prevalent. According to Ernst and Young's 2020 Census (**EY's 2020 Census**) on Fintech, post-revenue Fintechs reported a 12% increase in paying customers from 27% in 2019 to 39% in 2020.<sup>114</sup>



<sup>112</sup> FinTech Australia 2020, *What is Fintech?*, FinTech Australia, < <https://www.fintechaustralia.org.au/learn/> >.

<sup>113</sup> KPMG 2017, *Scaling the Fintech Opportunity - For Sydney & Australia*, KPMG, p. 7, <<https://assets.kpmg/content/dam/kpmg/au/pdf/2017/scaling-fintech-opportunity-sydney-australia.pdf>>.

<sup>114</sup> Ernst & Young & FinTech Australia 2020, *EY FinTech Australia Census 2020 – Profiling and Defining the Fintech Sector*, Ernst & Young, <[https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_au/pdfs/ey-fintech-census-report2020.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/en_au/pdfs/ey-fintech-census-report2020.pdf)>.

Figure 13





### 7.2.2.2 Current Government Support

The Committee notes that Australian regulators have begun to take positive steps to encourage innovation and support the emerging Fintech industry.

#### RBA

On 13 February 2018, the RBA launched the New Payments Platform (**NPP**) to improve Australia's payment infrastructure and encourage innovation and competition in the delivery of payment services. The NPP enables customers of financial service providers to make real-time transfers, send and receive payments anytime, include more information with payments, and use Pay IDs to receive or send payments.

#### APRA

APRA on 4 May 2020 introduced a restricted route within its deposit-taking institution (**ADI**) licensing framework as an alternative to its ADI licence. The restricted ADI framework lowers barriers for entry for aspiring ADIs in the banking industry by providing it with a restricted ADI licence to conduct a limited amount of banking business for up to 2 years. During the 2 year period, it is expected that a restricted licence holder will develop its capabilities and resources to the extent required to fully comply with the prudential framework for an ADI licence. If a restricted licence holder does not meet these standards during the 2 year period, it must wind-up its banking business and its licence will be revoked.

#### ACCC

On 1 July 2020, implementation of the Consumer Data Right regime in the banking sector (Open Banking) launched and will be rolled out in phases to enable customers of Australia's big four banks (CBA, NAB, ANZ and Westpac) to request and share their banking data with third parties that have been accredited by the ACCC.

#### ASIC

ASIC's Innovation Hub, launched in March 2015, helps new Fintechs navigate through ASIC's regulatory framework and allows ASIC to receive feedback from Fintechs to identify regulatory uncertainties.

ASIC launched the Enhanced Regulatory Sandbox (**ERS**) on 1 September 2020 following the success of the Regulatory Sandbox. Entities can use the ERS to test its new financial service or credit activity for up to 24 months without holding an Australian Financial Services Licence or an Australian Credit Licence.

#### Treasury

On 25 September 2020, the Treasury announced simplification of the consumer credit framework in the *National Consumer Credit Protection Act 2009* to remove barriers to accessing credit for consumers and small businesses and increase flow of credit. One of the proposed reforms includes removing responsible lending obligations, except for credit contracts and consumer leases. This reform will lower lending standards and provide lenders with the flexibility to determine whether to lend. If the legislation is passed, it is expected that the measures will commence on 1 March 2021.

#### AUSTRAC

AUSTRAC in its 2019-2023 Corporate Plan stated that it will engage with the Fintech sector and finance sector locally and internationally to collaborate in relation to reporting, providing feedback to industry and decreasing regulatory costs.



### 7.2.2.3 Comparing Government Support to Other Jurisdictions

While the government efforts so far have been well received by the Fintech community, it is perceived to be insufficient in comparison to other countries.<sup>115</sup>

#### United Kingdom

The UK has become the leading global Fintech hub with its Fintech firms attracting billions of dollars every year. One of the reasons behind the success of the UK's Fintech industry is the highly supportive and dynamic regulatory framework adopted by the UK regulators. Similar to Australia, the UK has open banking, a regulatory sandbox and a real-time payment infrastructure. Despite this, there are a number of initiatives that the UK has implemented that there is no equivalent of in Australia. They are summarised in Appendix 8.

#### Singapore

Singapore has become a global leader in Fintech. Singapore's regulator, MAS has introduced a number of initiatives to support the growth of Singapore's Fintech industry. These include the regulatory sandbox that Australia has, as well as additional initiatives that Australia lacks, which are summarised in Appendix 9.

### 7.2.3 ECONOMIC BENEFIT

The Recommendation will allow the financial regulatory environment to be more conducive to innovation, risk-taking and entrepreneurship. This could attract more businesses and talent into the industry that may lead to a network effect similar to the Silicon Valley, Shenzhen technology hub or Silicon Wadi.

According to the Octopus High Growth Small Business Report, 1 in every 5 jobs in the UK between 2015 and 2016 were created by high growth small businesses. During the same period, 22% of economic growth came from high growth small businesses.<sup>116</sup>

Given that the Australian Fintech industry consists of high growth small businesses, if Australian regulators support their growth, it can boost employment and economic growth in Australia.

### 7.2.4 EXPECTED BUDGET COST

This Recommendation has been assessed by the Parliamentary Budget Office as having no material impact on the Budget.

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<sup>115</sup> Ernst & Young & FinTech Australia 2019, *EY FinTech Australia Census 2019 – Profiling and Defining the Fintech Sector*, Ernst & Young, p. 29, <[https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_au/pdfs/ey-fintech-census-report2020.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/en_au/pdfs/ey-fintech-census-report2020.pdf)>.

<sup>116</sup> Octopus Group 2018, *High Growth Small Business Report 2018*, Octopus Group, <<https://octopusgroup.com/wp-content/uploads/sites/2/2020/01/octopus-high-growth-small-business-report-2018-3.pdf>>.

## 7.3 Licensing of Foreign Financial Service Providers

### RECOMMENDATION 14:

Revisit the proposed abolishment of the licensing exemption for foreign financial service providers (FFSP) that are licensed in comparable jurisdictions, where the services are only being provided to, or trades done with, Professional Investors.

### 7.3.1 OVERVIEW

As noted earlier, ASIC has previously allowed FFSPs to operate in Australia without an Australian AFS, provided they are regulated under an overseas regulatory regime considered to be sufficiently equivalent to Australia's regime. However, it is currently proposed that from April 2022 such FFSPs would require an Australian foreign AFS licence which adds additional compliance, costs and process for application.

The Committee believes that imposing this requirement may cause some financial institutions to cease servicing Australia or cease offering certain products in Australia and act as a barrier to becoming a more prominent global financial centre. It is therefore recommended that this change be revisited for any FFSP that is interacting with Professional Investors (e.g. those with more than A\$10 million in personal assets or that are already licenced themselves) that do not require extra protection.

The Committee also recommends that Australia seek equivalent exemption from other jurisdictions, including through the Australia-UK and Australia-Europe Free Trade Agreements and via negotiation with the new US administration.

### 7.3.2 BACKGROUND

#### 7.3.2.1 Current Position

For the purposes of applying for a foreign AFS licence, ASIC recognises the following 13 overseas regulatory regimes as sufficiently equivalent to Australia's regime:<sup>117</sup>

1. Denmark - Finanstilsynet or the Danish Financial Supervisory Authority
2. France - Autorité des Marchés Financiers
3. France - Autorité de contrôle prudentiel et de résolution
4. Germany - Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)
5. Hong Kong - Securities and Futures Commission
6. Luxembourg - Commission de Surveillance du Secteur Financier
7. Ontario, Canada - Ontario Securities Commission
8. Singapore - Monetary Authority of Singapore
9. Sweden - Finansinspektionen
10. United Kingdom - Financial Conduct Authority
11. United States - Commodity Futures Trading Commission
12. United States - Federal Reserve and Office of the Comptroller of Currency
13. United States – US Securities and Exchange Commission

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<sup>117</sup> Australian Securities & Investments Commission 2020, *Regulatory Guide 176 – Foreign Financial Services Providers*, Australian Securities & Investments Commission, pp. 9-10, <<https://download.asic.gov.au/media/5689975/rg176-published-10-march-2020-20200727.pdf>>.

### 7.3.2.2 The Issues

The AFS licensing requirement is triggered by an overseas entity conducting regulated activities with a sufficient connection to Australia, such that it will be taken to be "carrying on a financial services business" in Australia. The root cause of the problem in relation FFSP licensing is that the Corporations Act has unbounded extraterritorial application to overseas entities that deal with wholesale clients in Australia. This was consistent with the drafting style of all-encompassing financial services definitions in the Corporations Act, which were then limited by exclusions. In particular, s 911D will *deem* an entity that is located outside of Australia to be carrying on a financial services business in Australia where that entity engages in conduct that is intended to induce, or is likely to induce, people in Australia to use the financial services provided by the entity.

This approach is very broad by international standards and the policy view around the time the *Financial Services Reform Act (2001)* was made was that this outcome would represent jurisdictional overreach in respect of wholesale client business, so a number of solutions were devised including:

- (a) For foreign exchange and derivatives services: s 911A(2E) exempts firms outside of Australia that provide a financial service to professional investors (the key cohort of wholesale clients) from the need to hold an AFS licence;
- (b) For other financial services: s 911A(2)(h) and (l) give ASIC the authority to exempt affected overseas providers from the need to hold an AFS licence if they meet certain requirements; and
- (c) For limited scale business: ASIC issued a class order to provide relief from the requirement to hold an AFS licence where the provider is not in Australia, deals only with wholesale clients and would only have a licence required due to the deeming element in s 911D.

The effect of these mechanisms was to place Australia more in line with overseas jurisdictions in respect of the treatment of providers of wholesale financial services who are located in another jurisdiction. Some, such as Switzerland, have quite open regimes for cross-border wholesale business or like New Zealand offer safe harbours. Others, such as Hong Kong, use a higher threshold test based on active marketing to trigger a licensing requirement. Japan has a registration exemption for foreign securities firms if they take orders without solicitation or take orders through a traditional securities company. In mid-2020, Singapore announced it would streamline its exemption framework for business arrangements between financial institutions in Singapore and their foreign related corporations.<sup>118</sup>

In contrast, for securities there is proposed to be a withdrawal of the relief provided in (b) and (c) above and ASIC is replacing it with the FFSP regime that is less effective in providing professional investor clients access to cross-border financial services and higher cost. Issues raised by the industry to the Committee include policy inconsistency:

- (a) in the regulation governing wholesale business in securities and that for derivatives and foreign exchange;
- (b) in the treatment of funds management and other wholesale client business under the FFSP regime itself;

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<sup>118</sup> Monetary Authority of Singapore 2020, *Response To Feedback Received – Proposed Revisions To Exemption Framework For Cross-Border Business Arrangements*, Monetary Authority of Singapore, <<https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/FRC/Response-to-Consultation-on-Proposed-Revisions-to-FRC-Framework.pdf>>.

- (c) in placing a licensing burden on overseas wholesale client services when the Government has recently provided a new gateway to foreign regulated fund managers seeking investment from Australian retail clients through the Asia Region Fund Passport regime;<sup>119</sup> and
- (d) between the high FFSP regulatory barriers and the Government's policy objective to promote competition in the financial system.<sup>120</sup>

ASIC's Regulatory Impact Statement suggested one-off costs of A\$160,000 per entity and ongoing annual cost of A\$25,000 per annum, but the Committee understands that Industry has estimated that an initial application for a FFSP licence could cost, in external fees, in the range of A\$200,000-300,000 depending on the licensing authorisations required for the entity, the level of proofs required to be submitted, and the length of time the application process takes with ASIC.<sup>121</sup> Ongoing costs with respect to maintaining a FFSP licence in part depend on the specific licensing requirements and obligations, reporting obligations, and conduct standards, but cost estimates in excess of A\$500,000 plus per annum were provided to ASIC by industry during consultation.

The proposed FFSP licensing regime is difficult to reconcile with recommendations of G20, IOSCO and the Financial Stability Board to avoid unnecessary fragmentation of financial markets. Moreover, it has been raised by the City of London as an impediment to free trade in wholesale financial services in the context of an Australia-UK free trade agreement.<sup>122</sup>

The consequences of fragmentation include higher barriers to entry, reduced services to end users, and reduced market liquidity. Apart from direct compliance costs, FFSPs must contend with subtleties and uncertainties that are unique to Australian regulation that even sophisticated, well-informed Australian licensees with large compliance teams find hard to manage. Moreover, the extra-territorial impact is such that some market participants would have to restructure their businesses to comply with ASIC's new licensing regime. In practice, this would be an impossible task for FFSPs that have an incidental business exposure to wholesale investors in Australia.

The concerns raised relate to the efficient functioning of wholesale professional markets operating cross-border and not to questions relating to retail investor protection. Wholesale financial markets are global in nature and many market participants operate on a cross-border basis. There is broad industry agreement about the importance attached to the objectives of market regulation and investor protection but there is also a belief that ASIC can meet its objectives in this area while also serving the equally important objective of open and competitive financial markets. This understanding is consistent with ASIC's competition mandate.

### 7.3.1 ECONOMIC BENEFIT

Australia is a sophisticated financial marketplace but is not in a dominant position from either a global or regional perspective. Accordingly, it is imperative that decisions affecting the openness of the Australian market and access by Australian investors to products and services appropriately balance the equally important objectives of consumer and investor protection

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<sup>119</sup> The ARFP is a multi-lateral agreement that aims to facilitate cross border distribution of managed fund products across the Asian region, effectively allowing collective investment products offered in one Passport economy to be sold to investors in another participating jurisdiction.

<sup>120</sup> ASIC must now consider the impact of its actions on consider competition in the financial system (*Treasury Laws Amendment (Enhancing ASIC's Capabilities) Act 2018*).

<sup>121</sup> This estimate is taken from AFMA's submission in response to ASIC CP 301 and is consistent with others, for example, with the Law Council's submission.

<sup>122</sup> City of London 2020, *UK-Cross Border Trade in Services with Australia*, City of London, p. 15, < <https://www.cityoflondon.gov.uk/assets/Business/UK-crossborder-trade-in-services-with-Australia.pdf>>.



with the development of the financial sector given its important contribution to the Australian economy.

### **7.3.2 EXPECTED BUDGET COST**

There would be a negligible impact to the Federal Budget.



# Telling the Story





## 8. Telling the Story



The first fourteen Recommendations discussed in this Report will make Australia a more attractive financial centre and a more attractive place to base and grow business activities.

However, it is also important that decision makers in companies elsewhere in the world are aware of these, and other existing, benefits of moving activity to Australia. It is currently the case that countries like Singapore (through the MAS and Economic Development Board) and the UK (via the City of London and UK trade investment bodies) proactively and frequently promote the competitiveness and attractiveness of their market on a global stage in a way that Australia has not done. This is one of the reasons that the level of their financial services exports as a proportion of GDP is many times what it is in Australia.

We note that each of Seoul, Tokyo and London have recently released plans to attract more financial services business to their market. The world does not stand still and globally competitive financial services and Fintech activity are dynamic. Australia needs to tell our current story better and also institutionalise a framework under which the competitive attractions of Australia continue to be made known to key people, professional services firms and advisers.

## 8.1 Roadshow to Attract Business and Talent

### RECOMMENDATION 15:

Create a Financial Services Taskforce within Austrade, including revolving private sector representatives, that conducts regular virtual and in-person roadshows to promote the attractions of Australia as a regional headquarters and global financial centre.

#### 8.1.1 OVERVIEW

Consistent with recommendations from the Senate Select Committee on Financial Technology and Regulatory Technology, a Financial Services Taskforce within Austrade should be established to organise and conduct regular roadshows (mostly virtual in the current environment) with executives from foreign firms, particularly in the AsiaPac region, to:

- (a) promote Australia's offer as a global financial centre;
- (b) encourage headquarters to be established in Australia; and
- (c) encourage investment in Australia.

Members of the Financial Services Taskforce are to include a mix of Austrade employees together with revolving representatives across different industries in the private sector.

The roadshow can be conducted via a video conferencing platform with an on-demand link on its website for viewing later. The presentation should cover the opportunity that Australia can provide for the foreign firms, including the talent and favourable business environment that Australia offers (provided that the Recommendations in this Report improving the tax system and regulatory environment are implemented).

The first virtual roadshow should occur in early 2021.

#### 8.1.2 BACKGROUND

A roadshow is a commonly used marketing tool by companies to attract investment, typically before an initial public offering. It involves meeting and delivering presentations to potential investors in local and overseas cities. The roadshow can go on for a few days to a few weeks.

The roadshow concept has been adopted by governments and country regulators to promote a country's offer as a financial centre. For example, the Policy Chair of City of London visited Beijing to promote the UK's offer as a centre for risk management for multinational firms and as an investment opportunity for firms looking to invest in the global market.<sup>123</sup>

Due to COVID-19, virtual roadshows have replaced in-person roadshows, however they have produced equally successful results. For example, the United States' virtual initial public offerings (excluding those of special purpose acquisition companies) have yielded average gains of 35% compared to the S&P 500 Index, which rose by 6.6% in the same period.<sup>124</sup>

Virtual roadshows are often delivered as a presentation via a video conferencing platform. To reach a larger audience, an on-demand link can be provided on the organisers' website to allow viewing at any time.

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<sup>123</sup> City of London 2020, *City of London Corporation – Support for Financial and Professional Services*, City of London, p. 7, <<https://www.cityoflondon.gov.uk/assets/Business/support-for-financial-and-professional-services.pdf>>.

<sup>124</sup> Murdoch, S. and Franklin, J. 2020, 'Can Virtual Roadshows Bring in the Sales', *Reuters*, 5 June, <<https://fr.reuters.com/article/us-health-coronavirus-banks-roadshows-idUSKBN23C0TM>>.



### **8.1.3 ECONOMIC BENEFIT**

In a post-COVID world, virtual roadshows present an opportunity to reach a global audience, without having to deal with the challenges associated with significant travel times or costs of international travel.

Virtual roadshows have a number of benefits including, cost effectiveness, absence of capacity restraints, significantly reduced costs for delegates and organisers, and can provide opportunities to obtain rich analytical data that can be used to better target future events.

### **8.1.4 EXPECTED BUDGET COST**

This Recommendation can be achieved with existing resources of the responsible agency and is deemed to be immaterial to the Budget by the Parliamentary Budget Office.

## 9. Summary of Recommendations

### RECOMMENDATION 1:

Complete the Corporate Collective Investment Vehicle (CCIV) regime, with particular reference to matching the best features of the Singapore VCC structure.

### RECOMMENDATION 2:

Amend the Investment Manager Regime rules to deal with issues in relation to (i) residence of foreign funds (ii) treatment of debt securities and (iii) treatment of fund manager interests in funds.

### RECOMMENDATION 3:

Have no withholding tax apply to funds issued under the Asia Region Funds Passport program.

### RECOMMENDATION 4:

Eliminate interest withholding tax on borrowings by financial institutions based in Australia.

### RECOMMENDATION 5:

Introduce a Technology Export Royalty (TER) patent box scheme to concessionally tax royalties on IP that are received by companies from offshore.

### RECOMMENDATION 6:

Establish an Incremental Business Activity Rate (IBAR) regime whereby companies establishing a "Qualifying Business" in Australia would receive a tax rebate for up to 7 years on profit from these activities.

### RECOMMENDATION 7:

ASIC to fast-track an AFS licence for any business that already has an SFC, FCA or MAS licence for the same activities (within 2 months of application unless unsuitable).

### RECOMMENDATION 8:

Establish a Significant Investor Panel within the ATO that can provide rapid rulings and decisions on issues associated with making new investment of greater than A\$100 million in Australia.

**RECOMMENDATION 9:**

Introduce a Days-in Days-out (DIDO) system for taxing senior staff and entrepreneurs running Regional or Global businesses that employ >5 people in Australia.

**RECOMMENDATION 10:**

Amend the Significant Investor Visa (SIV) regime to simplify and provide greater focus on job-creation.

**RECOMMENDATION 11:**

Establish a Sub-Committee of the Council of Financial Regulators (CFR) or Financial Regulator Assessment Authority (FRAA), with private sector representation, that will promote investment/competitiveness and balance the existing focus, which is solely on compliance and investor-protection.

**RECOMMENDATION 12:**

The Sub-Committee of the CFR or FRAA to provide an annual report to Parliament that reviews existing rules for the sector and recommends how to simplify and adapt to changes in dynamic markets.

**RECOMMENDATION 13:**

Adopt "Bias to Yes" and "Bias to Competition" as over-riding principles for ASIC/APRA/Austrac etc. when regulating Fintech, RegTech and other Tech.

**RECOMMENDATION 14:**

Revisit the proposed abolishment of the licensing exemption for foreign financial service providers (FFSP) that are licensed in comparable jurisdictions, where the services are only being provided to, or trades done with, Professional Investors.

**RECOMMENDATION 15:**

Create a Financial Services Taskforce within Austrade, including revolving private sector representatives, that conducts regular virtual and in-person roadshows to promote the attractions of Australia as a regional headquarters and global financial centre.



# Appendices





## APPENDIX 1

### GLOBAL FINANCIAL CENTRE INDEX 28 INDUSTRY RANKING 2020<sup>125</sup>

Rank	Banking	Investment Management	Insurance	Professional Services	Government & Regulatory	Finance	Fintech	Trading
1	New York	New York	Shanghai	New York	New York	New York	New York	Hong Kong
2	London	London	Beijing	London	London	Shanghai	Singapore	New York
3	Shanghai	Singapore	New York	Luxembourg	Zurich	Beijing	Shanghai	Singapore
4	Tokyo	Hong Kong	Luxembourg	Hong Kong	Hong Kong	London	London	London
5	Hong Kong	Shanghai	London	Singapore	Singapore	Hong Kong	Hong Kong	Shanghai
6	Beijing	Luxembourg	Hong Kong	Shanghai	Shanghai	Tokyo	San Francisco	Frankfurt
7	Shenzhen	Beijing	Singapore	Geneva	Luxembourg	Shenzhen	Beijing	Luxembourg
8	Guangzhou	Stuttgart	Shenzhen	San Francisco	Shenzhen	Frankfurt	Shenzhen	Geneva
9	San Francisco	Shenzhen	Zurich	Beijing	Geneva	Paris	Tokyo	Beijing
10	Singapore	San Francisco	Tokyo	Zurich	Los Angeles	Los Angeles	Zurich	Los Angeles
11	Luxembourg	Dubai	Paris	Montreal	Tehran	Brussels	Luxembourg	Tokyo
12	Edinburgh	Edinburgh	Seoul	Tokyo	Tokyo	Singapore	Chicago	Shenzhen
13	Zurich	Washington DC	Frankfurt	Shenzhen	San Francisco	Edinburgh	Amsterdam	Zurich
14	Paris	Sydney	Copenhagen	Frankfurt	Frankfurt	Geneva	Los Angeles	Chicago
15	Geneva	Liechtenstein	Montreal	Toronto	Malta	San Francisco	Frankfurt	Dubai

<sup>125</sup>

GFCI 28, p. 44.

## APPENDIX 2

### IMD WORLD COMPETITIVENESS RANKING 2020<sup>126</sup>

Rank	Country
1	Singapore
2	Denmark
3	Switzerland
4	Netherlands
5	Hong Kong
6	Sweden
7	Norway
8	Canada
9	UAE
10	USA
11	Taiwan
12	Ireland
13	Finland
14	Qatar
15	Luxembourg
16	Austria
17	Germany
18	Australia
19	United Kingdom
20	China
21	Iceland
22	New Zealand
23	South Korea
24	Saudi Arabia
25	Belgium
26	Israel
27	Malaysia
28	Estonia
29	Thailand
30	Cyprus

<sup>126</sup> IMD 2020, *World Competitiveness Ranking 2020*, IMD < <https://www.imd.org/wcc/world-competitiveness-center-rankings/world-competitiveness-ranking-2020/> >.

## APPENDIX 3

### EASE OF DOING BUSINESS RANKING 2020<sup>127</sup>

Rank	Country
1	New Zealand
2	Singapore
3	Hong Kong
4	Denmark
5	South Korea
6	United States
7	Georgia
8	United Kingdom
9	Norway
10	Sweden
11	Lithuania
12	Malaysia
13	Mauritius
14	Australia
15	Taiwan
16	UAE
17	North Macedonia
18	Estonia
19	Latvia
20	Finland

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<sup>127</sup> World Bank 2020, *Ease of Doing Business Rankings*, World Bank <<https://www.doingbusiness.org/en/rankings>>.

## APPENDIX 4

### PAYING TAXES RANKING 2020<sup>128</sup>

Rank	Country	Payments (Number Per Year)	Time (Hours Per Year)	Total Tax and Contribution Rate (% of Profit)
1	Bahrain	3	23	13.8
2	Hong Kong	3	35	21.9
3	Qatar	4	41	11.3
4	Ireland	9	82	26.1
5	Mauritius	8	140	22.2
6	Kuwait	12	98	13
7	Singapore	5	64	21
8	Denmark	10	132	23.8
9	New Zealand	7	140	34.6
10	Finland	8	90	36.6
11	Oman	15	68	27.4
12	Estonia	8	50	47.8
13	Israel	6	234	25.3
14	Georgia	5	216	9.9
15	Bhutan	18	52	35.3
16	Latvia	7	169	38.1
17	Zambia	11	158	35.6
18	Lithuania	10	95	42.6
19	Canada	8	131	24.5
20	Switzerland	19	63	28.8
21	South Korea	12	174	33.2
22	Netherlands	9	119	41.2
23	Luxembourg	23	55	20.4
24	Morocco	6	155	45.8
25	United States	11	175	36.6
26	Turkey	10	170	42.3
27	United Kingdom	9	114	30.6
28	Australia	11	105	47.4

<sup>128</sup> World Bank 2020, *Paying Taxes*, World Bank <<https://www.doingbusiness.org/en/data/exploretopics/paying-taxes>>.



## APPENDIX 5

### GLOBAL INNOVATION INDEX RANKING, INNOVATION INPUT SUB-INDEX RANKING AND INNOVATION OUTPUT SUB-INDEX RANKING 2020<sup>129</sup>

Global Innovation Index Rankings		Innovation Input Sub-Index Rankings	Innovation Output Sub-Index Rankings
Rank	Country	Country	Country
1	Switzerland	Singapore	Switzerland
2	Sweden	Switzerland	Sweden
3	United States	Sweden	United Kingdom
4	United Kingdom	United States	Netherlands
5	Netherlands	Denmark	United States
6	Denmark	United Kingdom	China
7	Finland	Hong Kong	Germany
8	Singapore	Finland	Finland
9	Germany	Canada	Denmark
10	South Korea	South Korea	South Korea
11	Hong Kong	Netherlands	Ireland
12	France	Japan	France
13	Israel	Australia	Israel
14	China	Germany	Luxembourg
15	Ireland	Norway	Singapore
16	Japan	France	Hong Kong
17	Canada	Israel	Czech Republic
18	Luxembourg	Austria	Japan
19	Austria	New Zealand	Iceland
20	Norway	Ireland	Estonia
21	Iceland	Belgium	Malta
22	Belgium	UAE	Canada
23	Australia	Iceland	Austria
24	Czech Republic	Luxembourg	Italy
25	Estonia	Estonia	Belgium
26	New Zealand	China	Cyprus
27	Malta	Spain	Spain
28	Italy	Czech Republic	Norway

<sup>129</sup> Cornell University, INSEAD and World Intellectual property Organisation, *Global Innovation Index 2020 – Who Will Finance Innovation*, Global Innovation Index, pp. xxxiii – xxxvii < <https://www.globalinnovationindex.org/gii-2020-report#>>.

## APPENDIX 6

### STATUS OF RECOMMENDATIONS FROM JOHNSON REPORT

Recommendation	Status according to FSC Report <sup>130</sup>	Current status	Additional information
Introduction of Investment Manager Exemption	Legislated June 2015	N/A	
Support for offshore banking units	Commenced, but modernisation not achieved	Not implemented – OBU's in process of being amended to remove potentially harmful features	<p>On 16 October 2018, the Treasurer issued a press release stating that Australia would reform its OBU regime as a result of the OECD raising concerns about the concessional tax rate and the ring-fenced nature of the regime<sup>131</sup></p> <p>In July 2019 the ATO noted as follows:</p> <p>Forum of Harmful Tax Practices has cited Offshore Banking Units as an issue and Australia has been Grey Listed by the EU as a result. Solutions are being considered by Government/Treasury<sup>132</sup></p> <p>No update has been provided since this announcement, although in September 2019, KPMG stated that:</p> <p>Major changes to Australia's Offshore Banking Unit regime are expected to be announced by Treasury shortly, and we</p>

<sup>130</sup> Financial Services Council 2016, *Australia as a Financial Centre – Seven Years On: The Second Johnson Report*, Financial Services Council <<https://www.fsc.org.au/resources-category/publication/755-2016-0628-fsc-australiaasafinancialcentre-7yearson/file>>.

<sup>131</sup> Frydenberg, J. (Treasurer) 2018, *Amending Australia's Offshore Banking Unit Regime*, Media Release, 25 October, <<https://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/media-releases/amending-australias-offshore-banking-unit-regime>>.

<sup>132</sup> Australian Taxation Office 2019, *Large Business Stewardship Group Key Messages 24 July 2019*, Australian Taxation Office, <<https://www.ato.gov.au/General/Consultation/In-detail/Stewardship-groups-minutes/Large-Business-Stewardship-Group-Large-Business-Stewardship-Group-key-messages-24-July-2019/>>.

Recommendation	Status according to FSC Report <sup>130</sup>	Current status	Additional information
Review allowing a broader range of collective investment vehicles	Commitment, not yet implemented	Committed, not yet implemented – significant amount of public consultation and exposure draft legislation  Impacted by Government's reforms to the taxation of Stapled Structures	understand that the regime may even be repealed <sup>133</sup>  The Government has released a number of exposure drafts relating to CCIV's. To date Treasury has consulted as follows: <sup>134</sup>  2017 – general consultation  2018 – three tranches of consultation and a further tax framework consultation  2019 – additional consultation, including incorporating amendments to create consistency with the new taxation treatment of stapled structures  Allens Linklaters' CCIV webpage also contains historical links to each tranche of consultation <sup>135</sup>
Development of an Asia Region Funds Passport	Commitment, not yet implemented	Enabling legislation	The <i>Corporations Amendment (Asia Region Funds Passport) Bill 2018</i> was passed as the <i>Corporations Amendment (Asia Region Funds Passport) Act 2018</i> <sup>136</sup> and introduced the Asia Region Funds Passport  The Bills Home Page contains copies of the Explanatory Memorandum (EM) as well as the Revised EM and Supplementary EM <sup>137</sup>

<sup>133</sup> KPMG 2019, *Changes Expected to Offshore Banking Unit*, KPMG, <<https://home.kpmg/au/en/home/insights/2019/09/changes-expected-to-offshore-banking-unit-13-september-2019-ti.html>>.

<sup>134</sup> The Treasury 2019, *Corporate Collective Investment Vehicle Bill*, The Treasury, <<https://consult.treasury.gov.au/financial-system-division/c2019-t354340/>>.

<sup>135</sup> Allens Linklaters 2019, *Corporate Collective Investment Vehicle*, Allens Linklaters, <<https://www.allens.com.au/sectors-services/services/funds-management/cciv/>>.

<sup>136</sup> *Corporations Amendment (Asia Region Funds Passport) Act 2018* (Cth).

<sup>137</sup> Parliament of Australia 2018, *Corporations Amendment (Asia Region Funds Passport) Bill 2018*, Parliament of Australia, <<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fr6089%22>>.

Recommendation	Status according to FSC Report <sup>130</sup>	Current status	Additional information
Removal of withholding tax for foreign raised funds and foreign banks	Not implemented	<p>Partial reduction announced but does not appear to have been implemented</p> <p>However, note the sovereign immunity exemption, which exempts foreign sovereign entities and sovereign wealth funds from Australian income and withholding taxes (see the Bills Digest to the <i>Treasury Laws Amendment (Making Sure Foreign Investors Pay Their Fair Share of Tax in Australia and Other Measures)</i><sup>138</sup></p>	<p>The 2010-11 Budget announced that the Government would:<sup>139</sup></p> <p>Phase down the interest withholding tax (IWT) paid by financial institutions on most interest paid on offshore borrowings, with effect from the 2013-14 income year. This measure has an ongoing cost to revenue which is expected to be A\$70 million over the forward estimates period</p> <p>This measure will phase down the IWT rate applying to foreign bank branches from the current 5% to 2.5% in 2013-14 and to zero from 2014-15. The IWT rate for other financial institutions will be reduced from 10% to 7.5% in 2013-14 and to 5% from 2014-15, with an aspirational target of zero</p> <p>However, it does not appear this has been implemented (s. 160ZZZJ of the <i>ITAA 1936</i> provides that interest withholding tax applied to foreign banks is half of the general interest withholding rate and was last amended in 2006)</p>
Remove impediments to Islamic finance	Commitment, not yet implemented	Commitment, but does not appear to be implemented	In May 2016, the Government released the Board of Taxation's "Review of the Taxation Treatment of Islamic Finance Products". <sup>140</sup> In response:

<sup>138</sup> Department of Parliamentary Services (Cth), *Bills Digest* (Digest No 60 of 2018-19, 13 February 2019), < [https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/6495547/upload\\_binary/6495547.pdf;fileType=application/pdf](https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/6495547/upload_binary/6495547.pdf;fileType=application/pdf)>.

<sup>139</sup> Commonwealth of Australia 2010, *Budget Measures – Budget Paper No. 2 2010-11*, p. 43-4, < <https://archive.budget.gov.au/2010-11/bp2/bp2.pdf>>.

<sup>140</sup> Board of Taxation 2016, *Review of the Taxation Treatment of Islamic Finance Products*, Board of Taxation, < [https://taxboard.gov.au/consultation/islamic\\_finance\\_products](https://taxboard.gov.au/consultation/islamic_finance_products)>.



Recommendation	Status according to FSC Report <sup>130</sup>	Current status	Additional information
Removal of state taxes and levies on insurance			<p>In the 2016-17 Budget the Government announced it would amend the tax laws to give asset backed financing arrangements consistent tax treatment with arrangements based on interest bearing loans or investments. These changes will apply from 1 July 2018. These measures incorporate the Board of Taxations recommendations as outlined in their final report to Government</p> <p>No Bills have been introduced into Parliament giving effect to this Budget measure</p>
	Not implemented, situation worsened	<p>In the available time it is not possible to undertake a comprehensive review of each State and Territory's changes to taxes and levies on insurance. However, we do note the following:</p> <p>The ACT abolished insurance duty in 2016<sup>141</sup></p> <p>Victoria abolished life insurance duty in 2014<sup>142</sup></p> <p>Recommendation 10 of the Draft Report for the NSW Review of Federal Financial Relations was:</p> <p>All specific taxes on insurance products, including the Emergency Services Levy in New South Wales, should be abolished and replaced by more efficient and broad tax bases, to improve the affordability and uptake of insurance<sup>143</sup></p>	
Road-testing of all significant financial services regulatory proposals to ensure	Not implemented	Incomplete	<p>The <i>Treasury Laws Amendment (2018 Measures No. 2) Act 2019</i> received Royal Assent on 26 February 2020.<sup>144</sup></p> <p>This allows regulations to provide for</p>

<sup>141</sup> ACT Revenue Office, *Tax Reform*, ACT Revenue Office, <<https://www.revenue.act.gov.au/tax-reform>>.

<sup>142</sup> State Revenue Office Victoria 2014, *Life Insurance Duty Abolished*, State Revenue Office Victoria, <<https://www.sro.vic.gov.au/news/life-insurance-duty-abolished>>.

<sup>143</sup> NSW Government 2020, *NSW Review of Federal Financial Relations – Supporting the Road to Recovery*, NSW Government, p. 72 <<https://www.treasury.nsw.gov.au/sites/default/files/2020-06/FFR%20Review%20Draft%20Report%20.pdf>>.

<sup>144</sup> *Treasury Laws Amendment (2018 Measures No. 2) Bill Act 2019* (Cth).

Recommendation	Status according to FSC Report <sup>130</sup>	Current status	Additional information
necessity, effectiveness and to minimise compliance burden			exemptions from the Australian Financial Services Licence and Australian Credit Licence requirements for the purposes of testing financial and credit products and services under certain conditions. As such, it reduces compliance burdens for new Fintech products <sup>145</sup>
Periodic reviews of regulatory rules and framework to prevent against overregulation	Commenced, but only one review held		N/A
Government to more actively promote Australia as a financial services centre	Commenced	According to the GFCI 28 Australia's performance and overall ranking as a financial centre has deteriorated in recent years. For example, according to the September 2020 release of the GFCI 28: <sup>146</sup>  Sydney was ranked 32nd in the world (falling 12 places), behind Tokyo (4th in the world), Shanghai (3rd), Singapore (6th), Hong Kong (5th), Beijing (7th), Shenzhen (9th) and Guangzhou (21st)	N/A

<sup>145</sup> Department of Parliamentary Services (Cth), *Bills Digest* (Digest No 16 of 2019-20, 31 July 2019), <[https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/6824620/upload\\_binary/6824620.pdf](https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/6824620/upload_binary/6824620.pdf)>.

<sup>146</sup> *GFCI 28*, p. 4.

Recommendation	Status according to FSC Report <sup>130</sup>	Current status	Additional information
Establishment of a Financial Centre Taskforce		Melbourne was 27th in the world (falling 6 places)	
	Commenced, but recommendations largely ignored and eventually disbanded		N/A

## APPENDIX 7

### EXEMPTIONS TO INTEREST WITHHOLDING TAX

#### Public offer test - Section 128F of the ITAA 1936<sup>147</sup>

An exemption may be available if an Australian company (including certain trusts and branches of foreign companies) paid interest on a debenture, a non-equity share or a syndicated loan. For the loan to be characterised as a syndicated loan, it must meet each of the criteria below:

- (a) the agreement describes itself describe itself as a “syndicated loan facility” or a “syndicated facility agreement”;
- (b) between
  - (i) at least 2 lenders at the time that interest is paid; and
  - (ii) 1 or more borrowers that are part of the same wholly owned group, are parties to the same joint venture or associates of each other;
- (c) each lender severally but not jointly agrees to lend money; and
- (d) the Australian borrower(s) will have access to at least A\$100 million at the time of the first loan.

For debentures and non-equity shares, to satisfy the public offer test, it must be offered in one of the following ways:

- (a) to at least 10 unrelated entities that are in the business of providing finance, or investing or dealing in securities, in the course of operating in financial markets;
- (b) to 100 or more persons whom have acquired similar interests in the past or whom it is reasonable for the borrower company to assume as being likely to be interested in acquiring such interests;
- (c) being accepted for listing on a stock exchange, where the Borrower company had previously entered into an agreement with a dealer, manager or underwriter for their placement requiring the company to seek such listing;
- (d) the debenture or non-equity share is a global bond; or
- (e) to a dealer, manager or underwriter, in relation to the placement of debentures or debt interests, who, under an agreement with the company, offered the debenture or debt interest for sale within 30 days in a manner covered by any of the above.

The public offer test will fail if, at the time of issue, the Australian company knew or had reasonable grounds to suspect the debenture would be acquired directly or indirectly by an offshore associate and that associate was not acting in a permitted capacity.

For a syndicated loan to satisfy the public offer test, it must be offered in one of the following ways:

- (a) to at least 10 unrelated entities that are in the business of providing finance, or investing or dealing in securities, in the course of operating in financial markets;
- (b) publicly in an electronic or other form that was used by financial markets for dealing in debentures or debt interests; or
- (c) to a dealer, manager or underwriter who agrees with the company to make the invitations to become a lender under the facility within 30 days in a manner covered by any of the above.

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<sup>147</sup> *Income Tax Assessment Act 1936* (Cth) s 128F.



The public offer test will fail if, at the time of invitation, the Australian company knew or had reasonable grounds to suspect the offshore associate is or will become a lender and that associate was not acting in a permitted capacity.

#### Public offer test for unit trusts - Section 128FA of the ITAA 1936<sup>148</sup>

A similar exemption to section 128F exists for interest paid by a trustee of an eligible unit trust to a non-resident in respect of a debenture or debt interest (e.g. a syndicated loan) issued by the trustee. The public offer test in section 128F that applies to debentures and syndicated loan for companies applies to debentures and syndicated loans issued by an eligible unit trust, and must be satisfied for the section 128FA exemption to apply.

The public offer test for a debenture will fail if, at the time of issue, the trustee of an eligible unit trust knew or had reasonable grounds to suspect the debenture would be acquired directly or indirectly by an offshore associate and that associate was not acting in a permitted capacity.

The public offer test for a syndicated loan will fail if, at the time of invitation, the trustee of an eligible unit trust knew or had reasonable grounds to suspect the offshore associate is or will become a lender and that associate was not acting in a permitted capacity.

#### Sovereign immunity exemption<sup>149</sup>

Sovereign entities are exempt from withholding tax where the sovereign entity:

- (a) Holds a portfolio like investment only (i.e. less than 10%);
- (b) Derives income or capital gains on an investment in shares or non-share equity in an Australian company, units in a MIT or in a debt interest; and
- (c) The sovereign entity does not have influence (either directly or indirectly) over operational decisions of the Australian company or MIT.

#### OBU exemption - Section 128G of the ITAA 1936<sup>150</sup>

As part of the OBU regime, interest payments on offshore borrowings made by OBUs are exempt from withholding tax. However, this exemption may disappear if the Treasury abolishes the OBU regime following OECD's finding.

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<sup>148</sup> *Income Tax Assessment Act 1936* (Cth) s 128FA.

<sup>149</sup> *Income Tax Assessment Act 1997* (Cth) Div 880.

<sup>150</sup> *Income Tax Assessment Act 1936* (Cth) s 129G.

## APPENDIX 8

### UK FINTECH INITIATIVES

Initiative	Description
Start Up Loan Scheme <sup>151</sup>	Government-backed personal loan scheme that launched in 2012  Loans up to £25,000 (A\$45,164.25) are provided to individuals looking to start or grow a start-up in the UK payable at a fixed interest rate of 6% with a 1-5 years repayment term
Innovation Competitions <sup>152</sup>	Innovation UK hosts innovation competitions targeting innovative firms with successful applicants being able to receive grants from Innovative UK  E.g. Innovative UK Smart Grants: August 2020 provides successful applicants with a share of a £25 million grant if it can deliver a disruptive innovation that benefits the UK economy
Capability and Innovation Fund <sup>153</sup>	Established by the UK government to encourage innovation and competition in the UK small and medium enterprises ( <b>SMEs</b> ) banking sector  Applicants can receive a share of the fund valued at £425 million  e.g. Challenger bank, Metrobank, received £50 million from the fund
New Bank Start-up Unit <sup>154</sup>	Launched by Prudential Regulation Authority ( <b>PRA</b> ) and Financial Conduct Authority ( <b>FCA</b> )  Assists with entry of new banks (e.g. neobank/challenger bank start-ups) in the UK banking sector by providing information and support during the licensing process and early years following authorisation  New banks will have access to a dedicated helpline and email address, access to supervisors from PRA and FCA, invitations to events and seminars regarding regulatory topics and monthly regulatory update emails

<sup>151</sup> British Business Bank, *Start Up Loans*, <<https://www.startuploans.co.uk/>>.

<sup>152</sup> UK Government, *Innovation Competitions*, <<https://apply-for-innovation-funding.service.gov.uk/competition/search?page=2>>.

<sup>153</sup> Banking and Competition Limited, *Capability and Innovation Fund*, <<https://bcr-ltd.com/cif/>>.

<sup>154</sup> Financial Conduct Authority 2016, *New Bank Start-up Unit Launched By The Financial Regulators*, Press Release, 20 June, <<https://www.fca.org.uk/news/press-releases/new-bank-start-unit-launched-financial-regulators>>.

## APPENDIX 9

### SINGAPORE FINTECH INITIATIVES

Initiative	Description
Singapore Fintech Festival and Singapore Week of Innovation and Technology <sup>155</sup>	<p>Annual Fintech event organised by MAS in partnership with the Association of Banks in Singapore and in collaboration with SingEx Holdings and Singapore Fintech Festival</p> <p>The event connects the global Fintech community, allows Fintechs to showcase innovations, recognises innovations through MAS Global Fintech Hackcelerator and MAS Fintech Awards, and facilitates collaboration between Fintechs</p>
API Exchange (APIX) <sup>156</sup>	<p>Sandbox for Fintechs and financial institutions to:</p> <ul style="list-style-type: none"> <li>Find Fintechs/financial institutions to partner with</li> <li>Engage in discussions on APIX community forums</li> <li>Post business problems and share ideas to existing business problems</li> <li>Onboard users</li> <li>Experiment with application programming interfaces</li> </ul> <p>Developed and operated by AFIN (a non-profit organisation established by MAS, World Bank's International Finance Corporation and ASEAN Bankers Association)</p>
Singapore Payments Roadmap <sup>157</sup>	Study by MAS and KPMG to study Singapore's payment landscape and recommend strategies to promote e-payments in Singapore
Payments Council <sup>158</sup>	<p>Developed as part of the Singapore Payments Roadmap recommendations to encourage the adoption of e-payments, and foster innovation and collaboration in the financial services industry</p> <p>It is headed by MAS' managing director and leaders from financial services industry</p>
Business Sans Borders <sup>159</sup>	<p>A pilot project led by MAS and Infocomm Media Development Authority that aims to connect platforms and marketplaces to enable SMEs to seamlessly access cross-border trade opportunities and financial services</p> <p>Phase 1: Proof-of-concept</p> <p>Phase 2: Pilot - trial real SME transactions on participating platforms for SMEs in Singapore, Philippines and India</p>

<sup>155</sup> Monetary Authority of Singapore, the Application of Banks in Singapore and SingEx Holdings 2018, *Singapore Fintech Festival*, <<https://www.fintechfestival.sg/uploads/pastsff/FinTech-info-pack-PPT-vA14-LowRes.pdf>>.

<sup>156</sup> Apix Platform, *FAQ*, <<https://apixplatform.com/static/faq/>>.

<sup>157</sup> Monetary Authority of Singapore, *E-Payments*, <<https://www.mas.gov.sg/development/e-payments>>.

<sup>158</sup> Monetary Authority of Singapore 2017, *MAS Establishes Payments Council*, Media Release, 2 August, <<https://www.mas.gov.sg/news/media-releases/2017/mas-establishes-payments-council>>.

<sup>159</sup> Monetary Authority of Singapore 2018, *Business Sans Borders – A Collaborative AI-Driven Global Solutions Hub to Foster SME Digitalisation*, Media Release, 12 November, <<https://www.mas.gov.sg/news/media-releases/2018/business-sans-borders>>.

Initiative	Description
Project Ubin <sup>160</sup>	<p>Collaborative multi-year multi-phase project between MAS and the industry to explore the use of blockchain and distributed ledger technology in different industries and multi-currency payments for cross-border transactions</p> <p>Phase 1 &amp; 2: building technology capabilities in the context of a domestic payments network</p> <p>Phase 3 &amp; 4: interoperability of blockchain-based networks for Delivery vs Payment and cross-border Payment vs Payment</p> <p>Phase 5: determine the commercial viability and benefits of the blockchain-based payments network - completed in July 2020</p>
<b>Government Co-Financing</b>	
Digital Acceleration Grant <sup>161</sup>	<p>MAS co-funds qualifying expenses of Singapore-based financial institutions and Fintech firms with less than 200 employees</p> <p>Projects Supported:</p> <ul style="list-style-type: none"> <li>• Institution Project: To support individual smaller financial institutions and Fintechs to adopt digital solutions</li> <li>• Industry Pilot: To support joint projects by multiple financial institutions to customise an existing solution with a solution provider.</li> </ul> <p>Funding Duration:</p> <ul style="list-style-type: none"> <li>• Institutional Projects – 1 year</li> <li>• Industry Pilots – 2 years</li> </ul> <p>Funding Amount:</p> <ul style="list-style-type: none"> <li>• Qualifying expenses for applications before 31 December 2021 – 80%</li> <li>• Applications after 31 December 2021 – 70%</li> </ul>
Artificial Intelligence and Data Analytics Grant <sup>162</sup>	<p>MAS co-funds up to 50% of qualifying expenses incurred by Singapore-based financial institutions or industry consortiums in projects that demonstrate adoption of AI &amp; data analytics techniques and achieve business objectives of strategy &amp; decision making or insights generation with consideration of workforce impact</p>

<sup>160</sup> Monetary Authority of Singapore and Temasek 2020, *Project Ubin Phase 5 -Enabling Broad Ecosystem Opportunities*, Monetary Authority of Singapore, <<https://www.mas.gov.sg/-/media/MAS/ProjectUbin/Project-Ubin-Phase-5-Enabling-Broad-Ecosystem-Opportunities.pdf?la=en&hash=91091CAD39265C03FF7A4253E70FBEE6D1177714>>.

<sup>161</sup> Monetary Authority of Singapore, *Digital Acceleration Grant*, Monetary Authority of Singapore, <<https://www.mas.gov.sg/development/fintech/digital-acceleration-grant>>.

<sup>162</sup> Monetary Authority of Singapore, *Artificial Intelligence and Data Analytics Grant*, Monetary Authority of Singapore, <<https://www.mas.gov.sg/schemes-and-initiatives/Artificial-Intelligence-and-Data-Analytics-AIDA-Grant>>.



Initiative	Description
MAS FSTI Proof-of-Concept Grant <sup>163</sup>	MAS co-funds up to 70% of qualifying costs (capped at S\$400,000) incurred by MAS-regulated financial institutions or technology/solution providers working with MAS-regulated financial institutions for the early stage development of novel solutions to problems in the financial industry  Funding Duration: Up to 18 months
Startup SG Tech Proof-of-Concept/Proof-of-Value <sup>164</sup>	Startup SG, a Singaporean government agency, provides qualifying startup companies grants up to S\$250,000 for Proof-of-Concept projects and up to S\$500,000 for Proof-of-Value projects  Projects Supported: <ul style="list-style-type: none"> <li>• Proof-of-Concept: Solution is at the conceptualisation stage, and the technical/scientific viability still needs to be proven</li> <li>• Proof-of-Value: A technically/scientifically viable concept exists (POC available), and there still needs to be further development of a working prototype, to validate the commercial merit of an established concept</li> </ul>
Business Growth Grant <sup>165</sup>	Part of MAS, Singapore Fintech Association and AMTD Foundation's S\$6 million Fintech Solidarity Grant  Co-funding of 70% of qualifying expenses (capped at S\$40,000) for a Fintech firm's first proof-of-concept application with any financial institution or technology company on the API exchange  Co-funding of 70% of qualifying expenses (capped at S\$10,000) for a Fintech's subsequent proof-of-concept applications with any financial institution or technology company on the API exchange  100% internship funding for salaries of Singaporean/permanent resident undergraduate interns (capped at S\$1000/month per intern) <ul style="list-style-type: none"> <li>• Fintechs with more than 30 staff – S\$20,000 overall salary cap</li> <li>• Fintechs with 30 staff or less – S\$10,000 overall salary cap</li> </ul>
MAS FSTI Innovation Centre Grant <sup>166</sup>	MAS co-funds up to 50% of salaries of qualifying roles or new Singaporean hires for qualifying roles for 24 months for a financial institution that is looking to establish, expand or relocate an innovation centre of excellence or lab in Singapore

<sup>163</sup> Monetary Authority of Singapore, *MAS FSTI Proof-of-Concept Grant*, Monetary Authority of Singapore, <<https://www.mas.gov.sg/development/fintech/mas-fsti-proof-of-concept-grant>>.

<sup>164</sup> Monetary Authority of Singapore 2020, *New S\$6 Million Grant Scheme to Support Singapore FinTech Firms*, Media Release, 13 May, <<https://www.mas.gov.sg/news/media-releases/2020/new-grant-scheme-to-support-singapore-fintech-firms>>.

<sup>165</sup> Singapore Fintech Association, *Fintech Solidarity Grant*, Singapore Fintech Association, <<https://singaporefintech.org/mas-sfa-amtd/>>.

<sup>166</sup> Monetary Authority of Singapore, *Financial Sector Technology and Innovation Scheme*, Monetary Authority of Singapore, <<https://www.mas.gov.sg/schemes-and-initiatives/fsti-scheme>>.

Initiative	Description
MAS FSTI Institution-level Project Grant <sup>167</sup>	MAS co-funds up to 50% of qualifying expenses (capped at S\$1 million) incurred by Singapore-based financial institutions, market or professional organisations or associations to catalyse innovative ideas and market solutions to advance the competitiveness of the financial institution and the sector
MAS FSTI Industry-wide Technological Infrastructure or Utility Project Grant <sup>168</sup>	MAS co-funds up to 70% of qualifying expenses incurred on industry-wide or national-wide utility projects to build industry-wide technological/utility infrastructure which would improve efficiency and boost productivity in the financial services sector
Startup SG Founder <sup>169</sup>	Enterprise Singapore, a Singaporean government agency supporting SME development, provides first-time entrepreneurs (with innovative business ideas) with mentorship support from an Accredited Mentor partner and S\$5 for every S\$1 raised by the entrepreneur (up to S\$50,000)
Startup SG Equity <sup>170</sup>	<p>A co-investing scheme whereby the Singapore's government will co-invest with independent qualified 3rd party investors into innovation-driven Singapore-based technology start-ups</p> <p>General tech</p> <ul style="list-style-type: none"> <li>Government will contribute S\$7 for every S\$3 raised by entrepreneur for the first S\$250,000 from SEEDS capital with \$1 for every \$1 raised after the first S\$250,000</li> <li>Investment Cap: S\$2 million from SEEDS capital</li> </ul> <p>Deep tech</p> <ul style="list-style-type: none"> <li>Government will contribute \$7 for every \$3 raised by entrepreneur for the first S\$500,000 from SEEDS capital with S\$1 for every S\$1 raised from S\$500,000 to S\$4 million, and \$3 for every \$7 raised thereafter</li> <li>Investment Cap: S\$8 million from SEEDS capital</li> </ul>

<sup>167</sup> Monetary Authority of Singapore, *Financial Sector Technology and Innovation Scheme*, Monetary Authority of Singapore, <<https://www.mas.gov.sg/schemes-and-initiatives/fsti-scheme>>.

<sup>168</sup> Monetary Authority of Singapore, *Financial Sector Technology and Innovation Scheme*, Monetary Authority of Singapore, <<https://www.mas.gov.sg/schemes-and-initiatives/fsti-scheme>>.

<sup>169</sup> Enterprise Singapore 2020, *ESG enhances Startup SG Founder Programme to Groom New Startups to Seed Next Lap of Innovation in Singapore*, Media Release, 20 August, Singapore, <<https://www.enterprisesg.gov.sg/-/media/esg/files/media-centre/media-releases/2020/aug-2020/esg-enhances-startup-sg-founder-programme-to-groom-new-startups-to-seed-next-lap-of-innovation-in-singapore.pdf?la=en>>; Startup SG, *Eligibility*, <<https://www.startupsg.gov.sg/programmes/4894/startup-sg-founder/eligibility>>.

<sup>170</sup> Startup SG, *Startup SG Equity*, <<https://www.startupsg.gov.sg/programmes/4895/startup-sg-equity>>.

Initiative	Description
MAS Cybersecurity Capability Grant <sup>171</sup>	<p>MAS will co-fund up to 50% of qualifying expenses incurred by a Singapore-based financial institution involved in either establishing, expanding or relocating cybersecurity functions to Singapore</p> <p>Project Supported:</p> <ul style="list-style-type: none"> <li>• Involves deepening infrastructure capabilities and developing cybersecurity talent in the financial services sector in Singapore</li> </ul>

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<sup>171</sup> Monetary Authority of Singapore 2018, *Cybersecurity Capability Grant*, Monetary Authority of Singapore, <<https://www.mas.gov.sg/schemes-and-initiatives/fsti-cybersecurity-capability-grant>>.

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