AUSTRALIAN INVESTMENT COUNCIL

30 June 2021

Senator Andrew Bragg
Chair
Senate Committee on Australia as a Technology and Financial Centre
PO Box 6100
Parliament House
Canberra ACT 2600

Email: fintech.sen@aph.gov.au

Dear Senator Bragg,

Senate Committee Inquiry into Australia as a Technology and Financial Centre

The Australian Investment Council is pleased to present a submission to the Senate Committee on Australia as a Technology and Financial Centre on its *Third Issues Paper* for the final phase of its inquiry. The Council acknowledges the work the Committee is undertaking as part of this review to support growth in the financial and technology sectors and to attract investment and create jobs.

The Council has been actively engaged in the earlier phases of the consultation of this inquiry due to the importance of technology as a driver of innovation and for its role in the development of new industries and employment opportunities as Australia emerges from the COVID-19 pandemic and transitions to a highly skilled, knowledge-based economy.

As the voice of private capital, the Australian Investment Council is supportive of policy initiatives and reforms that help ensure our economy is competitive, innovative and able to support Australia now and into the future. In particular, the Council encourages initiatives that help expand entrepreneurship, increase productivity and support investment – initiatives that drive the development of skills and talent, productive capacity and innovation through technology.

Private capital investment has played a central role in the growth and expansion of thousands of businesses and represents a multi-billion-dollar contribution to the Australian economy each year. Our members are the standard-bearers of professional investment and include: private equity, venture capital and private credit funds, alongside institutional investors such as superannuation and sovereign wealth funds, as well as leading financial, legal and operational advisers. Our members include both Australian domestic and offshore-based firms.

Investments made by private capital firms into Australian businesses directly result in the creation of new jobs and support growth in economic output across all sectors of the market. These investments represent 2.6 per cent of Australia's GDP output each year and are responsible for creating around 1 in 9 new Australian jobs according to independent analysis by Deloitte Access Economics.[1]

Australia has a potential to be a global leader in the development of new technologies. The Council's December 2020 analysis of job vacancies in the portfolio companies of eight venture capital funds showed that 25% of the job vacancies were in technology-related fields and an additional 11% were specific to FinTech. As these businesses grow and expand, the flow-on effects of more revenue and sales will lead to greater levels of investment into innovative market-leading research and development, and ultimately, will be the key drivers behind the creation of new, high-value jobs within the economy. [2]

---

[1] Deloitte Access Economics (2018) Private Equity: Growth and Innovation, April

[2] Future Jobs Barometer, Australian Investment Council March, 2021

The Council previously made submissions to the Committee setting out the industry's position on making technical amendments to the Early-Stage Venture Capital Limited Partnership (ESVCLP) and Venture Capital Limited Partnership (VCLP) regimes and ensuring there is a pipeline of talent to fill skills and employment gaps.

Instances of corporate law holding back investment

There is an anomaly under s118-425(13) of the ITAA 1997 that places restrictions on investments from ESVCLP/ VCLP programs into Fintech companies under certain circumstances.

Under the Act, the following investments are ineligible:

" (b) finance, to the extent that it is any of the following:

(i) banking;

(ii) providing capital to others;

(iii) leasing;

(iv) factoring;

(v) securitisation;

(c) insurance;

(e) making investments, whether made directly or indirectly, that are directed to deriving income in the nature of interest, rents, dividends, royalties or lease payments."

This creates an issue for ESVCLP or VCLP investment as companies under this regime already have to abide by the Enterprise Value test which is <$50m for ESVCLPs and <$250m for VCLPs, and the "no listed companies" test, so that any "bank" or "insurer" or "capital provider" that satisfies these tests must smaller by definition.

This legislation has created an inequity in the market as the current law allows VCLPs and ESVCLPs to invest in a range of innovative companies but not in authorised deposit-taking institutions. There is also a level of confusion as to where the line is drawn between a business that provides a platform and a business who is providing a lending service.

To this extent, the Council recommends this legislation is amended to provide more clarity to ESVCLPs and VCLPs investing into Fintechs and to enable a more level playing field for all investors into the Fintech sector.

The Council requests the Committee supports the industry's push for amendments to be made in this area as a priority in the coming months and looks forward to participating in any future discussion on the themes set out in this submission as part of the consultation process.

If you have any questions about specific points made in our submission, please do not hesitate to contact me or Brendon Harper, the Australian Investment Council's Head of Policy and Research, on 02 8243 7000.

Yours sincerely,

Yasser El-Ansary

Chief Executive