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Department of the Senate  
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Dear Committee

## **Select Senate Committee on Financial Technology and Regulatory Technology**

The Australian Financial Markets Association (AFMA) represents the interests of well over 120 participants in Australia's wholesale banking and financial markets. Our members include Australian and foreign-owned banks, securities companies, treasury corporations, traders across a wide range of markets and industry service providers. Our members are the major providers of services to Australian businesses and retail investors who use the financial markets. We are pleased to provide a submission to the Select Committee on Financial Technology and Regulatory Technology (“the Committee”).

We acknowledge the breadth of the Issues Paper prepared by the Committee; however we have limited the scope of our submission to a specific issue that we believe appropriate to bring to the Committee’s attention, particularly in terms of both attracting Fintech firms to Australia as a location to conduct business and also to retain such firms once they have reached the point of having a sustainable business here.

### **Offshore Banking Unit Regime**

AFMA has a number of members that are Fintech in nature, being innovative, highly technological companies that use Australia as a base from which to trade in international financial markets. These companies have developed trading technology and applications that are leading edge in global terms and have created sizeable businesses in Australia, employing a considerable number of staff. They are internationally mobile and choose to operate in Australia primarily to access a high-quality labour force and avail of the benefit of economic/political stability and a respected legal system. However, in order to maintain their competitiveness relative to competing firms in other jurisdictions in the Asia-Pacific region, these firms also avail themselves of the Offshore Banking Unit (“OBU”) regime.

The OBU regime promotes Australia as a location from which to conduct mobile financial services business through providing a 10% corporate tax rate for eligible business, together with an interest withholding tax concession in respect of offshore borrowings. Contrary to its name, the OBU applies to a broad range of of financial service activities, including funds management and trading. The importance of the OBU regime was articulated in the Johnson Report into Australia as a Financial Centre, which stated:

“the Forum believes that an effective OBU regime is a key element in ensuring that Australia’s financial sector takes full advantage of opportunities to participate in international transactions.”

### **OECD Review into OBU Regime**

In 2018, the OECD Forum on Harmful Tax Practices conducted a review into the OBU Regime. Consequent to this review, and concerns expressed by the OECD Forum, the Government committed in October 2018 to amend the OBU regime. At the time of writing, AFMA is not aware as to the specific amendments that the Government will propose in respect of amendments to the OBU Regime, although it is expected that the amendments will significantly undermine the competitiveness of the OBU regime. In the absence of a competitive OBU Regime, alternative taxation settings for financial services businesses that operate in Australia and service offshore clients or trade in offshore markets should be considered.

### **Relevance to the current enquiry**

The Terms of Reference for the Committee’s enquiry include consideration of the effectiveness of current initiatives in promoting a positive environment for FinTech and RegTech start-ups. It is our contention that the OBU Regime is a current initiative that supports not only FinTech start-ups but a number of successful FinTech firms that participate in international financial markets from Australia. To the extent that Australia wishes to continue to provide a taxation environment for such firms, that allows Australia to leverage its considerable non-tax attributes to attract firms to conduct business within Australia, then the ongoing viability of the OBU Regime should be part of the Committee’s considerations.

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Please contact me on 02 9776 7996 or [rcolquhoun@afma.com.au](mailto:rcolquhoun@afma.com.au) if you have any queries about this submission.

Yours sincerely,



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