Creating a more dynamic and resilient economy inquiry

Questionnaire response 46

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1. Support business investment through corporate tax reform

1. What features of the Australian business environment have encouraged or restrained investment over the past 10 years?

Australia has historically benefited from strong rule of law, deep capital markets, and a
highly
skilled workforce. However, investment in sectors such as electronic market making has
been
restrained by tax and regulatory uncertainty, particularly following the repeal of the
Offshore
Banking Unit (OBU) regime. The absence of a competitive and sector-appropriate
replacement has created headwinds, particular for smaller firms and start-ups in
Australia
competing with similar sized businesses based offshore.
A number of organistions in our industry worked together with Delaoitte Access
Economics
to produce a report on this industry for Govnerment. The Electronic Market Making
Industry
in Australia grew at an average annual rate of 17% from 2013 - 20221, reaching $1.7bn
prior
to the repeal of the OBU in 2022. Australia had an APAC regional competitive
advantage in
this industry until this point. The impact of its repeal has made it more challenging for
smaller firms to compete with their offshore rivals. The introduction of the proposed
Electronic Market Maker Incentive (EMMI), the details of which have been shared with
Commonwealth Treasury (see attachment), would help restore this advantage,
catalysing
further investment in Australia by providing a globally competitive, transparent, and
targeted
framework tailored to high-productivity, export-oriented fintech businesses.
The public policy case for EMMI is strong: electronic market makers reduce transaction
costs, provide vital liquidity, and improve capital allocation efficiency—critical functions
for
a well-functioning financial system. By narrowing bid-ask spreads, they lower the cost of
capital for listed companies, support price discovery, and help maintain orderly markets
even
during times of volatility.
Most Electronic Market Makers undertake this activity on capital markets outside
Australia,
creating a valuable export business for Australia – one that collectively paid $219m in
tax in
FY20222

2. What elements of the corporate tax system encourage and/or discourage investment and risk-taking?

Australia's headline corporate tax rate is among the highest of all developed economies, according to the OECD and relatively much higher than its regional peers, which can deter continued investment the industry needs to remain globally competitive. More importantly, industries which require high continuous investment in technology and innovation-intensive and export-oriented sectors, such as algorithmic trading and financial technology are further at a disadvantage compared to their counterparts in Hong Kong and Singapore. We are seeking a level playing field to do business.

A targeted regime like the proposed Electronic Market Maker Incentive (EMMI), which is supported by industry associations, such as the Australian Financial Markets Association (AFMA) and the Financial Services Council (FSC) would encourage risk-taking by ensuring after-tax returns are competitive globally, and incentivise the necessary investment into technology and cutting edge AI/ Quant research to ensure they remain so well into the future.

This will help to build a thriving business of the future, contributing valuable outcomes for Australia’s future.

The EMMI is a OECD-compliant policy designed to improve and modernise the repealed OBU regime. It offers a concessional 17% tax rate to firms meeting specific eligibility criteria centred around genuine proprietary market-making activity using latency-minimising technology infrastructure. Its design ensures support for firms that contribute to market liquidity and financial system efficiency, while reinforcing Australia's position as a regional hub for digital finance and tech development.

3. Which parts of the corporate tax system do you find the hardest, or most time or cost-intensive to comply with? How could the compliance burden of the business/company tax system be reduced?

The lack of clarity following the repeal of the OBU regime has led to increased administrative burden as firms navigate inconsistent treatment across jurisdictions and investment types. A clearly defined, sector-specific framework like EMMI would reduce ambiguity, streamline compliance, and align with international tax norms, enabling Australia to continue to be a leader in this fintech industry of the future.

One of the more time and cost-intensive areas of the corporate tax system is the R&D Tax Incentive, particularly due to its dual regulator structure. Businesses must register their R&D activities with AusIndustry and then separately claim the tax offset through the ATO. This division creates uncertainty, as the ATO can review and challenge claims up to four years after lodgement, including reassessing the eligibility or quantum of R&D tax offsets. In contrast, jurisdictions like China adopt an upfront approval model, where both technical eligibility and expenditure are reviewed in advance by the relevant authorities. Once

approved, there are no subsequent challenges to the R&D tax deduction in the corporate tax
return. This approach gives businesses much-needed certainty around their R&D investments
and could serve as a model for reducing compliance burdens and increasing confidence in
Australia’s R&D

2. Reduce the impact of regulation on business dynamism

1. What areas of regulation do you see as enhancing business dynamism and resilience? What are the reasons for your answer?

Effective prudential regulation and Australia’s high quality tertiary education sector have helped underpin trust and dynamism in financial markets. However, support is needed to accelerate growth in emerging sectors – particularly in the technology sector (typified by roles that can be done anywhere) - to create future industries. Incentives like the EMMI would bolster Australia's fintech ecosystem while preserving safeguards. It promotes investment in high-skill, high-tech roles and encourages the growth of high tech, export-heavy businesses that drive Australia’s long-term economic success and resilience.
In addition, the electronic market-making industry supports the broader economy by anchoring a growing fintech cluster. Alumni from these firms have gone on to launch over 20
Australian fintech start-ups.

2. How has your regulatory burden changed over time?

The regulatory burden has increased, particularly for cross-border trading firms. The loss of
the OBU regime introduced ambiguity and costs that disproportionately affect smaller firms,
leading to reduced competition and market exits (e.g. Maven Securities, Akuna Capital).
EMMI would restore a level playing field, reduce regulatory friction, and support better alignment between taxation, economic activity and innovation policy.

3. What regulations do you find time-consuming, overly complex or otherwise constraining business dynamism and resilience? What are the reasons for your answer?

The absence of a modern tax framework for global trading operations is a major constraint.
International best practice supports tailored tax treatment for market-making activity due to
its capital intensity, volatility, and export focus. A general regime fails to accommodate these
dynamics. EMMI is designed precisely to address this gap, offering both simplicity and certainty in tax treatment, while ensuring only firms that meet strict eligibility thresholds qualify.

4. Can you share any specific examples of where you think a regulator has done a good or bad job of understanding and reducing regulatory burden on businesses and why?

Treasury's ongoing consultation with the electronic trading industry following the OBU repeal has been constructive. However, the pace of reform has lagged competitors. By

contrast, the Hong Kong Government has successfully introduced a zero tax incentive on
trading financial instruments for Family Offices setting up in Hong Kong that has transformed the private wealth industry in the Asian region, leading to the growth of ancillary
sectors and industries and sustainable future career paths for Hong Kong's graduates. It has
also led to the formation of a regional hub for financial innovation. The EMMI provides Australia with a timely opportunity to catch up and set a new benchmark in excellence with
similar flow on effects.