Creating a more dynamic and resilient economy inquiry

Questionnaire response 55

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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's strong rule of law, skilled workforce, and deep capital markets have traditionally supported investment. However, sectors like electronic market making have faced headwinds due to tax and regulatory uncertainty, especially following the repeal of the Offshore Banking Unit (OBU) regime. The lack of a competitive, sector-appropriate replacement has put this industry at risk.

A Deloitte Access Economics report showed the electronic market making industry grew 17% annually from 2013–2022, reaching $1.7bn before the OBU repeal. Australia held a regional advantage in this space, which has since diminished.

To restore competitiveness and attract investment, the proposed Electronic Market Maker Incentive (EMMI), already shared with Commonwealth Treasury, offers a globally competitive, transparent, and targeted framework tailored to high-productivity, export-led fintech businesses.

The public policy case is strong: electronic market makers enhance liquidity, reduce transaction costs, improve price discovery, and support capital allocation, which are key functions for a resilient financial system. Most of this activity occurs offshore, generating valuable export revenue. In FY2022 alone, the industry contributed $219m in tax and this number is expected to grow significantly in future, under the right policy settings.

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

Australia's corporate tax rate is among the highest in the OECD and significantly higher than regional competitors like Hong Kong and Singapore. This disadvantages high-investment, innovation-driven, export-focused sectors such as algorithmic trading and fintech in Australia, making it harder for them to stay globally competitive. Our sector is highly mobile, having no domestic customers and seeks a level playing field to continue investing and growing in Australia. In the absence of a replacement to the OBU regime, significant investment that ordinarily would have been made in Australia, has started to move to other APAC financial services hubs.

A targeted policy like the proposed Electronic Market Maker Incentive (EMMI), which is supported by AFMA and FSC, would address this gap. By offering a globally competitive after-tax return, EMMI would encourage greater investment in R&D, AI, and quantitative finance, supporting experimental innovation and technological leadership.

EMMI is an OECD-compliant replacement for the repealed OBU regime. It offers a concessional 17% tax rate for firms engaged in genuine proprietary market-making using advanced, latency-sensitive infrastructure. This ensures support flows to businesses that improve market liquidity, efficiency, and contribute to Australia's ambition of being a regional hub for digital finance and innovation.

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 repeal of the OBU regime has created uncertainty and administrative complexity, particularly as firms face inconsistent tax treatment across jurisdictions and investment types. A clear, sector-specific framework like the proposed EMMI would reduce ambiguity, align with global norms, and simplify compliance for fintech exporters.

The R&D Tax Incentive is also a significant compliance burden. Its dual-regulator model, requiring separate processes with AusIndustry and the ATO, creates uncertainty, especially given the ATO’s ability to retrospectively challenge claims for up to four years. This undermines confidence in long-term R&D investments.

A shift to an upfront approval model, similar to China’s system, where eligibility and expenditure are reviewed and confirmed before filing, would provide greater certainty, reduce red tape, and increase uptake of the R&D incentive. This would better support innovation and reduce compliance costs for Australian businesses.

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?

Australia’s strong prudential regulation and quality tertiary education system have built trust and supported financial market dynamism. To sustain this, targeted support is needed for emerging sectors, particularly technology-driven industries where work is borderless and globally competitive.

Incentives like the proposed EMMI can accelerate growth in fintech by encouraging investment in high-skill, high-tech, export-oriented businesses. This supports Australia’s long-term economic resilience while maintaining appropriate safeguards.

The electronic market-making sector also acts as a catalyst for innovation. Alumni from these firms have founded over 20 Australian fintech start-ups, helping to grow a dynamic and globally connected tech ecosystem. In the absence of a thriving domestic sector, many of these highly skilled professionals would have pursued challenging, high-paying roles offshore. Supporting this industry ensures that talent is retained, nurtured, and leveraged for Australia's economic future.

2. How has your regulatory burden changed over time?

The regulatory burden has increased, especially for cross-border trading firms, due to the repeal of the OBU regime. Its removal created ambiguity and added compliance costs that have disproportionately impacted smaller firms, contributing to reduced competition and some smaller firms exiting the Australian market.

The proposed EMMI would help restore a level playing field by reducing regulatory friction and better aligning tax policy with economic activity and innovation goals.

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, fit-for-purpose tax framework for global trading operations is a key constraint. International best practice recognises the need for tailored treatment of market-making due to its capital intensity, volatility and export-driven nature, all factors a general tax regime fails to address.

   The proposed EMMI directly responds to this gap by providing a clear, streamlined, and globally competitive tax framework. It offers both simplicity and certainty, while applying strict eligibility criteria to ensure it targets only genuine, high-value market-making activity.

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 engagement with the electronic trading industry post-OBU repeal has been constructive and consultative. However, the pace of reform has lagged behind global peers.

   In contrast, Hong Kong has moved decisively, introducing a zero-tax regime for financial instrument trading by Family Offices. This policy has transformed its private wealth sector, spurred growth in adjacent industries, and created long-term career opportunities for local graduates. It has also cemented Hong Kong's place as a regional hub for financial innovation.

   The proposed EMMI gives Australia a timely opportunity to close this competitive gap and establish a new benchmark in fintech policy, with similar positive spillover effects for talent, investment, and innovation.