3 November 2017

Shellie Davis

Senior Adviser

Financial Systems Division

The Treasury

Langton Crescent

PARKES ACT 2600

Email: sandbox@treasury.gov.au

Dear Ms Davis,

**FinTech – enhanced regulatory sandbox**

Thank you for providing the Australian Private Equity and Venture Capital Association Limited (AVCAL) with an opportunity to comment on the exposure draft of the *Treasury Laws Amendment (2017 Measures No. #) Bill 2017* (**Bill**). This submission is limited to the contents of the Bill given separate comments shall be provided on the *Corporations (Fintech Sandbox Australian Financial Services Licence Exemption Regulations 2017* and the *National Consumer Credit Protection (FinTech Sandbox Australian Credit Licence Exemption) Regulations 2017* (collectively, the **Regulations**) in line with their extended consultation timeframe (1 December 2017).

AVCAL represents the private equity (PE) and venture capital (VC) industry in Australia, which has a combined total of around $27 billion in funds under management on behalf of domestic and overseas investors including

Australian and offshore superannuation and pension funds, sovereign wealth funds, and family offices. VC and PE firms invest billions of dollars in early stage and established businesses spanning almost every sector of our national economy.

Much of the capital invested by these PE and VC funds is in smaller, high growth Australian companies, with a particular focus on commercialisation of research & development, and innovating and expanding established businesses.

1. **Importance of an enabling FinTech policy environment**

AVCAL supports the Government’s efforts to create a policy environment conducive to the development of a thriving FinTech ecosystem in Australia. In our view, providing opportunities to grow this part of the economy should be a high priority, given that the financial services industry is one of the largest industry sectors in Australia, and contributes significantly to job creation and economic growth within the economy. The David Murray-led Financial System Inquiry also highlighted the importance of an efficient, stable and competitive financial system for our prosperity. Supporting innovative new market entrants is particularly important given that financial services has been recognised by the World Economic Forum, amongst others, as a sector that is heavily exposed to digital disruption.[[1]](#footnote-2)

Accordingly, AVCAL supports Government initiatives such as the development of an enhanced regulatory sandbox. Such steps are critical, not only to ensure the financial services industry continues to make a major contribution to our economy, but also that in an increasingly global marketplace for ideas and capital Australia is able to compete effectively. A growth in FinTech businesses also has the potential to increase competition in the sector, with corresponding benefits for consumers in terms of cost, choice, as well product and service features.

Consequently, creating appropriate FinTech policy settings should be seen as a key element of the broader National Innovation & Science Agenda, aimed at developing a more sectorally diverse, knowledge driven Australian economy.

1. **Key comments on the Bill**

AVCAL supports the policy objective of the Bill, namely the creation of an enhanced regulatory framework that would allow new and innovative FinTech products and services to be tested in Australia. Since December 2016, ASIC has provided for a testing mechanism, however we understand that there has been extremely limited market up-take thus far, at least in part due to overly restrictive conditions which deters resource-constrained, typically young firms, from utilising it.

Given the Australian FinTech sector is enjoying rapid growth – with a 2017 Deloitte report placing Sydney eighth on a list of 44 top global FinTech hubs – there is a tremendous opportunity for it to further develop. However, ensuring that Australia has an agile regulatory sandbox framework is essential so as to facilitate the ability of FinTech firms to take products to market in a carefully calibrated way which balances the need to foster innovation with legitimate consumer protection goals.

As a result of the amendments proposed in the Bill, eligible entities will be able to test services in relation to certain financial products without an Australian Financial Services License (**AFSL**) or Australian Credit Licence (**ACL**) under certain conditions set out in the Regulations. This is a well-considered approach, rather than requiring firms to proactively seek ASIC approval (instead mere notification of their reliance on the exemption). It will also be an improvement on the current law which does not specifically provide for *conditional* exemptions from the AFSL or ACL licensing conditions, thereby creating regulatory and legal uncertainty.

1. **Detailed feedback on the draft Regulations to follow**

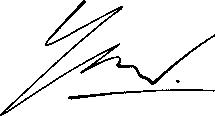
The above notwithstanding, the success of the proposed enhanced regulatory sandbox will depend on the relevant conditions being legally and commercially viable for market participants. If the conditions are too onerous, the sandbox is unlikely to be used (as appears to have been the case with respect to the existing model), thereby denying innovative FinTech firms the valuable opportunity to market test their products and services in a systematic, controlled manner.

Noting that stakeholder consultations on the Regulations end on 1 December 2017, AVCAL looks forward to providing detailed comments shortly on the Regulations in a separate submission.

1. **Next steps**

AVCAL would like to thank the Government for consulting with stakeholders on the proposed enhanced regulatory sandbox. In order to ensure that its policy objectives are achieved, it is vital that the framework is developed in close consultation with industry. AVCAL stands ready to work with the Government on this important initiative. If you would like to discuss any aspect of this submission further, please do not hesitate to contact either me or Christian Gergis, AVCAL Head of Policy and Research, on (02) 8243 7000.

Yours sincerely,



Yasser El-Ansary

Chief Executive

1. *Future of Financial Services 2015*, World Economic Forum, June 2015 [↑](#footnote-ref-2)