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Dear Senate Committee,

**RE: Foreign Investment Reform (Protecting Australia's National Security) Bill 2020 and Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2020 [Provisions]**

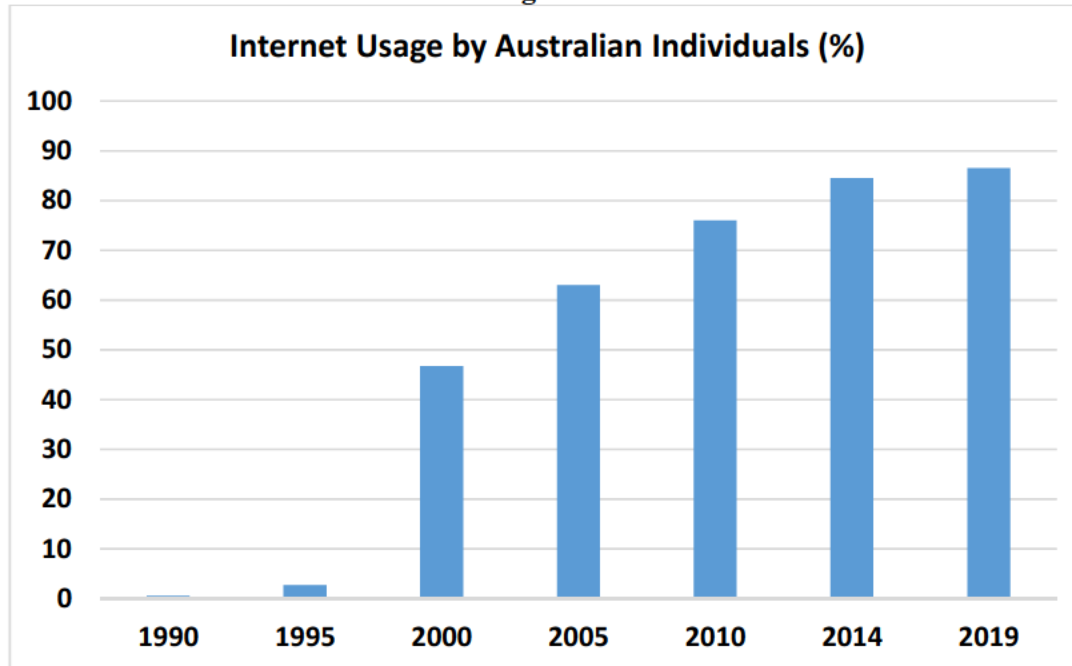
I, Shumi Akhtar (Associate Professor at the University of Sydney Business School), would like to express my gratitude for the opportunity to make this submission on Foreign Investment Reform (Protecting Australia's National Security) Bill 2020 and Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2020 to the Senate Committee. I am an empirical Financial Economist and this foreign investment reform Bill 2020 falls well within my area of expertise. As such, I believe that my research findings will help inform policy revision.

We are living in a tumultuous time and COVID-19 has exacerbated endless financial crimes such as deception, theft, corruption, fraud, blackmail, money-laundering, phishing emails and financial transaction scams have been accelerating around the world.

The importance of cybersecurity has never been greater, as COVID-19 has led to the digitalisation of every aspect of our life. Figure 1 below shows that given our population's high Internet usage, at least 80% of our population is essentially at high risk of cyber-attacks.



**Figure 1**



Our senior citizens (a group which is gradually increasing because of our ageing demography) will be the first victims of cybercriminals given their relative naivety with the digital world and retirees have relatively some savings in which criminals would like to dive in to rip them off.

Figure 2 shows that Australia experienced a plunge in its Anti-Money Laundering (AML) ranking, which coincided with the start of COVID-19. This decline in ranking for Australia indicates that after July 2020, anti-money laundering activities actually declined, potentially making Australia a less risky place for foreign investment. Australia's AML ranking peaked in 2015, followed by decline in 2016 and 2017 before slowly increasing again until experiencing a decline in August 2020. This suggests that the Australian government may currently be focusing on beefing up AML investigations and this is having a direct impact on the reduction of money-laundering activities. However, Australia is still more prone to AML risk than its neighboring country New Zealand, (NZ) as shown in Figure 2 below. NZ appears to be managing the AML risk much better than Australia. Although NZ's ranking was slightly higher during 2014 - 2015 and increased late 2019 till August 2020, however NZ certainly never gone



pass ranking of two – this means they had very minimal AML activities than Australia and rest of the world. This ranking scale range between 0 (safe) to 250 (risky).

Figure 1

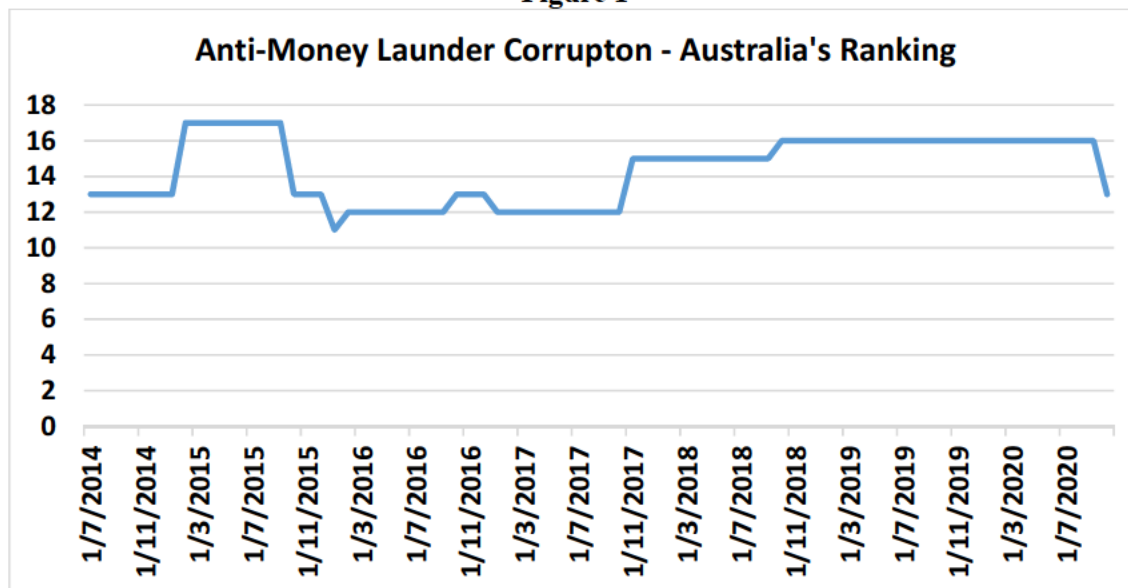
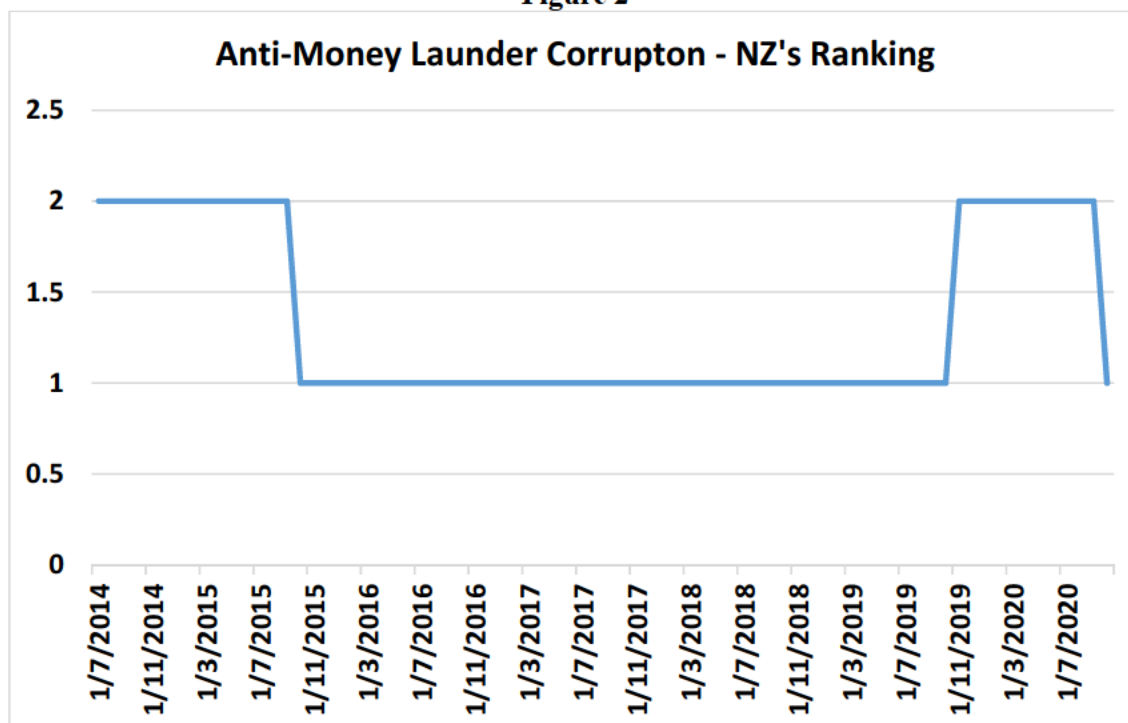


Figure 2





Over the past few decades, financial crime has been growing not just in volume but also in sophistication, depth and breadth. It has become a growing concern for governments and financial institutions around the world. “Black money” often leads to enormous monetary losses and damage to an organisation’s reputation for fiscal budgets, which in turn robs countries of investment in innovation, healthcare systems and education. The loss of revenue from criminal actions such as tax evasion, corruption and money laundering can hamper economic development and even threaten the fabric of societal stability.

Given the above evidence, it is imperative that we take a closer, deeper, wider and upfront view on foreign investment rules and policy revision to protect Australia’s national security and its sovereignty. I make following recommendations which may help the committee to consider incorporating in the revised Foreign Investment Bill 2020:

**Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2020**

1. Additional fees should be charged if an investment proposal is very complex and high ‘consideration’ value and therefore, requires significant amount of assessment resources to examine whether it contradicts with our national interest.
2. There should be fixed fees and tax charged yearly basis (adjusted for inflation) if any foreign investor wishes to acquire commercial and residential land or business or any controlling rights on any resources/assets but leaves it vacant/unproductive use otherwise it distorts competition and fair pricing of assets in the financial market.
3. Spot check should be done by Federal Police to minimize any illegal activities taking place in the residential and/or commercial land and properties. This fee should be charged upfront from the potential investors.



### **Foreign Investment Reform (Protecting Australia's National Security) Bill 2020**

1. It is important to outline in the investment proposal application that Australian government holds the right not to provide detail explanation to the foreign investor when a proposal of foreign investment deems to be a threat for our national security. There should be confined option: meets national security and does not meet national security.
2. We need to be more protective of our national assets. Assets could be financial, tangible/physical, natural resources, airports, airspace, Seaports, energy producing assets etc. Therefore, the Act needs to broaden the definition of our national treasures and assets. The asset or national security should not be limited to 'national security business or national security land'. Our real-estate, agriculture, airspace, water rights, trees, soil, animals, marine lives, mining resources, financial assets (e.g., options, futures, derivatives, and various financial instruments), human capital and many more needs to be mentioned.
3. Financial borrowers should be thoroughly checked – e.g., tourist, resident and citizens and their roots. There should be responsible lending to potential investors.
4. Investor's identity must be screened thoroughly so that fraudulent activities can be traced.
5. It is important to know information of any individual's name change on every investment proposals.
6. Australia must hold right to confiscate ownership and entirety of the investment capital if any illicit or illegal activities are being committed during the operation of their Business in Australia.
7. Page 20 (Line 27): Note should be specific to ownership. 'Any percentage' should be removed. Also, in (c) a "substantial interest" is too subjective. This needs to be tighter and should be capped. Further, in (d) it should be a percentage that a person holds in



other entities. Currently it only require one other entity but it should be 'entities' instead.

8. All sales revenue by any business set up in Australia should be operated in computerized transactions so that ATO can monitor and assess their taxable income in fair manner. Cash sales only should be minimized or capped.
9. We should signal that digital tax on goods and services is likely to take place given such tax has been under consideration in some countries overseas.
10. Investment proposal should be assessed on the merit of its benefit to Australia. Many foreign investors use 'Investment' as a vehicle to enter in Australia to get permanent residency. Often these investors may not be legitimate.
11. A photo identity and all finger-prints of the applicant should be supplied within the investment proposal application. Applicant's parents, siblings' and immediate family's information must be obtained.
12. Mobile internet network, digital service and COVID-19 health related app type business proposals by foreigners should be very carefully considered as it will compromise our national data and security in the long run without a shadow of a doubt.
13. Many Australian migrant citizens here in Australia are unable to bring in capital/investments from their country of origin. This is an untapped area where Treasury, ASIC and ATO should look into to assist repatriation of this capital into Australia. The current tax law requires all migrants that are tax residents to disclose investment assets held outside of Australia to ensure Australian income tax is paid on any income earned outside of Australia. Yet, the irony is that many of these migrants are unable to bring this capital into Australia, where it could be better deployed to making valuable investments in Australia. Often time, migrants may face severe difficulties disposing of assets held in their country of origin due to foreign outflow restrictions and/or local corruption. This is particularly true for many Asian countries



such as India, Bangladesh, Sri Lanka, Pakistan etc. There is a significant population of migrants that are facing severe financial difficulties here in Australia due to having their lifetime savings/assets stuck in their country of origin. This is compounded by the fact that often, senior citizen migrants often need to wait (e.g. 10 years) a certain period to be eligible for pension/social welfare benefits after they receive their permanent residency in Australia. Most of these migrants are unable to return to their country of origin to dispose of these assets due to various reasons e.g. safety issues. As a result, these migrants either rely on the Australian pension or Centrelink. Treasury, ASIC, ATO and FIRB should explore ways to assist (for example, having a mechanism that safely facilitates buy/sell transactions for migrants in conjunction with their respective embassies/consulates). This may be implemented by way of amending bilateral investment agreements. This will demonstrably alleviate pressure on the Australian pension/social welfare system as well as our medical system and enable migrants to be self-sufficient and financially independent.

The Australian government and the ATO are making some good progress but further work (research, revision of tax policies and amendments in corporate law) is urgently needed if we want to maintain Australia's position as a competitive financial and investment market with our major trading partners and investment competitors. I will happily welcome any opportunity to discuss further if required by the Senate Committee.

Sincerely

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Sincerely,  
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