



25 June 2021

Senator Andrew Bragg  
Chair  
Senate Select Committee on Australia as a Technology and Financial Centre

*via email: fintechs.sen@aph.gov.au*

Dear Senator Bragg

### **Australia as a Technology and Financial Centre Issues Paper**

Genuine competition in Australia's technology and financial industries means a diverse, innovative and cheaper range of products for small and family business. Small business can use these products to increase their productivity, grow, and deliver the jobs of the future. In an effort to encourage greater competition, my Office recommends the Committee consider the following.

#### **Debanking**

The seriousness of debanking cannot be understated. Technology and financial businesses who have been debanked must allocate precious capacity to correcting the operational damage caused by a loss of financial services. This damage can include legal processes and time spent securing alternate services, if they can be found at all. We are aware that this process of renewal can take as much as 6 months, despite many businesses being given only 30 days' notice of account closure.

Debanked businesses are rarely provided with an official reason for the decision, leaving them unsure of how to alter operations to correct perceived issues. We are aware however that, unofficially some are told:

- they are too high risk;
- they carry too great an AUSTRAC risk; or
- they are not an area the bank will service because of 'commercial reasons'.

The persistent inability of start-ups, many of which are small businesses, to access basic banking services, risks stunting Australia's technology and financial industries through unintentionally limiting competition before their true potential can be realised.

We recommend that an appropriate entity be empowered to require a financial institution to provide clarity around the robustness of decision making around a decision to withdraw or deny a financial service to a legally operating business. Consideration should also be given as to whether this might then be published and whether a review could be undertaken by the Australian Financial Complaints Authority of the decision. Government should be proactive in building its understanding of why financial institutions make decisions to debank businesses in the technology and financial industries. Government can then work with these industries to better mitigate risk while protecting the integrity of the national financial and security systems.

### **Banking policy**

The Reserve Bank of Australia (RBA) has acknowledged that small businesses have for years struggled to access finance, with those that do often securing loans against residential property.<sup>1</sup> The RBA also notes that “many small business owners may not be well placed to provide sufficient home equity to secure a suitable loan.”

Small businesses’ challenge in securing finance is exacerbated by limited competition in the prudentially regulated sector. Attached at Appendix A is a recent submission by my Office to the Australian Prudential Regulation Authority on how they might better support new entrants to the prudentially regulated sector thus increasing competition in the small business lending sector.

### **Consumer Data Right**

Open banking, as part of the Consumer Data Right (CDR) has potential to deliver significant productivity gains for the small business sector. Currently however, there remain large financial hurdles for smaller businesses (intermediaries) within the digital services ecosystems to participate, meaning many simply cannot partake. Working with the digital services community to address these issues without compromising data security should be a priority for government. This will not only create productivity gains for small businesses but opportunities for start-ups in the digital services industries.

Further, the exemption from CDR regulation for small businesses’ trusted advisors currently being considering remains of concern for industry. Under the proposed exemption, trusted advisors will only be able to access to their small business customer’s accounting software if an application is made by the small business to the accounting software provider, requesting permission. It is then up to the software provider to assess if the trusted advisor meets the CDR legislative definition of a trusted advisor. Permission must be renewed annually. This acts as a barrier to free flowing and timely data exchanges, alters the role of the accounting software provider and could potentially affect small business compliance obligations.

Yours sincerely,

**The Hon. Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman

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<sup>1</sup> From the Reserve Bank of Australia’s Assistant Governor, Christopher Kent’s 17 March 2021 address to the Australian Finance Industry Association.



## APPENDIX A

Australian Prudential Regulation Authority  
Policy and Advice Division  
Level 12, 1 Martin Place  
Sydney NSW 2000

*via email:*

Dear Sir/Madam

### **ADIs: New entrants – a pathway to sustainability.**

We support the introduction of a phased approach to authorisation that assists new entrants navigating the ADI licensing process. The historically high barriers to entry in the banking industry has limited competition. Small businesses and family enterprises often struggle to access adequate finance to grow their operations, particularly without offering up their family home as a security.<sup>1</sup> This has facilitated a traditional banking business model biased towards home lending over small business lending. Exacerbating this challenge for small businesses is the limited competition within the prudentially regulated sector.

To achieve the objectives outlined by APRA we suggest the following:

#### **1. New entrants are not 'mini banks'**

The limitations placed on restricted ADIs maintains a 'one size fits all' model. To effectively allow for sustainability and competition in the banking sector, we encourage a more nuanced approach. A deepened understanding of the diverse markets, sectors and risk profiles that new entrants operate in is important.

New entrants must be clear on APRA's expectations. As such, we encourage provision of further clarity around risk profiles and clear definitions of what constitutes low and high risk capital.

To generate genuine competition in the banking industry and support small business' access to finance, the phased licensing approach must accommodate for diverse product offerings. We encourage APRA to adopt a flexible approach to minimum liquidity holdings thresholds, derived from the entity's size, business model and exit strategy.

#### **2. Additional guidance regarding APRA's supervisory approach**

New entrants must be able to communicate with external investors and internal stakeholders about reliable and clear timelines to a licensing decision and the supervisory process once granted a restricted licence. The guidelines around the supervisory approach should include all further documents that may be requested along with expected timelines for reporting. This is particularly important in relation to reporting items 'beyond the usual content' of ADI reporting standards. All feedback from APRA during the restricted supervisory phase should be provided in plain language to minimise misunderstandings and ensure documents are submitted in a format preferred by APRA.

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<sup>1</sup> <https://www.rba.gov.au/publications/bulletin/2018/sep/pdf/access-to-small-business-finance.pdf>



**3. Two year timeline on restricted licensing phase**

The two year timeline is a concern and we would recommend flexibility through offering calibrated extensions of restricted ADI licences for businesses that can demonstrate an unforeseen delay in progressing to full ADI. The strict timeframe outlined would act as a disincentive for potential investors if the new entrant is nearing the end of the two year period, thereby limiting access to capital and ultimately causing an exit from the licensing process. Setting a two year limit also creates challenges for these new entrants to quickly raise capital, build a reputation (while only accepting deposits from staff, family and friends), access the wholesale funding market, and forecast accurately.

**4. Limited product launch on deposits to staff, friends and family**

Deposit limits and restrictions on customer types influence new entrants towards business models offering consumer-oriented retail products, creating further challenges for small businesses with limited ADI lender options. APRA's oversight and capital requirements should be sufficient to secure the return of deposits should that be required, without restricting to staff, friends and family. If APRA wishes to restrict the types of deposit customers, we would suggest examining the possibility of restricting deposits to consumers and business depositors who are financially aware of the risks associated with new entrants, similar to being a 'sophisticated investor'.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact

Yours sincerely

**The Hon. Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman