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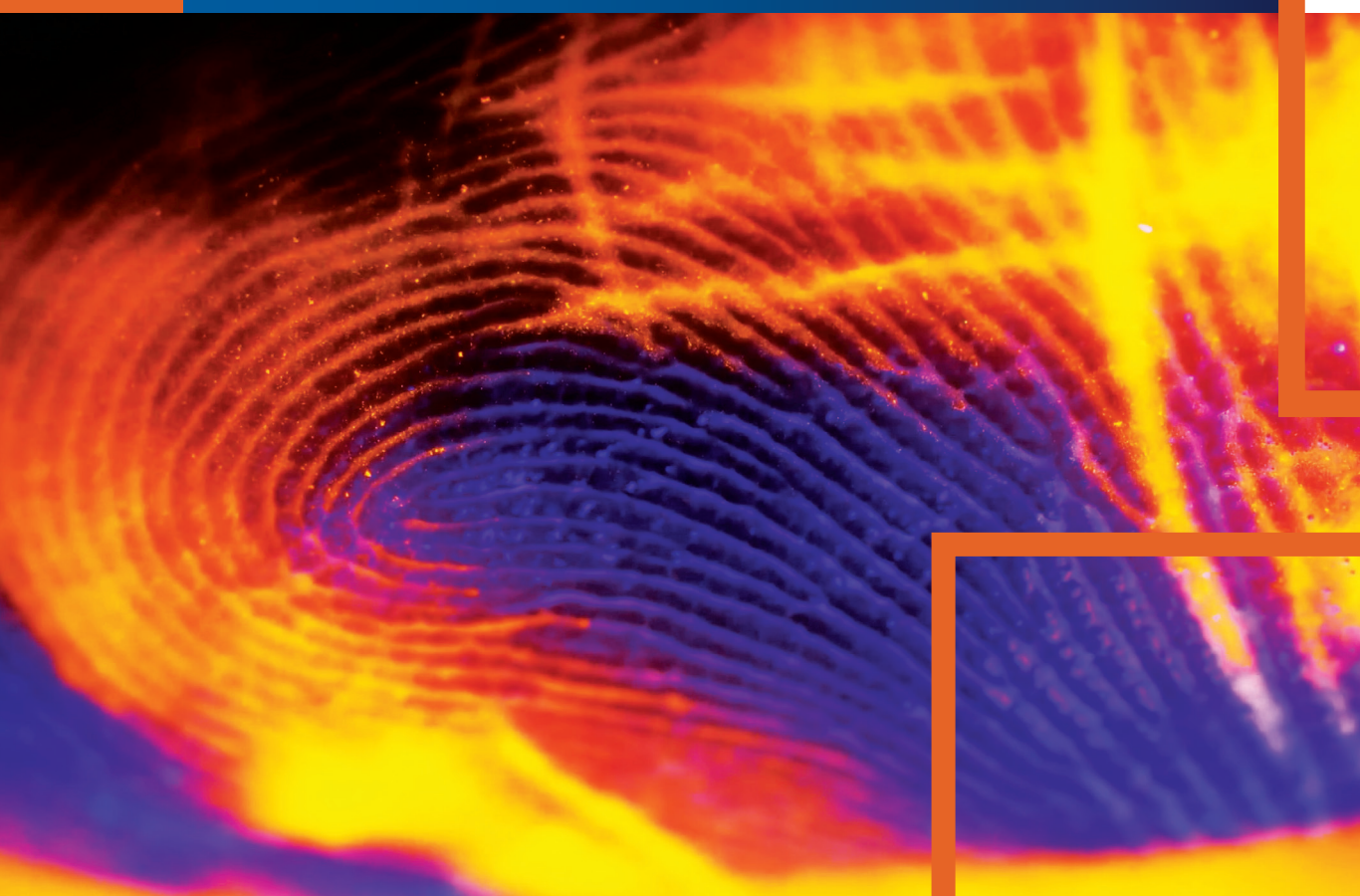
A practical cross-border resource to inform legal minds

10th Edition

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1 The Fintech Landscape

1.1 Please describe the types of fintech businesses that are active in your jurisdiction and the state of the development of the market. Are there any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, and insurance) including those relating to cryptoassets, tokenisation and artificial intelligence?

While there has been uncertainty in global markets over the last few years, fintech and the rapid digital evolution of the financial sector has remained a key focus in Australia with many fintech businesses developing and refining product and service offerings to better meet shifting consumer preferences and reflect innovations and opportunities created by technology.

As of 2026, fintech creation, development, adoption and investment continues to grow with the Australian fintech community broadening product offerings, which has been assisted by the Australian Government (**Government**) seeking to enhance Australia's policy and regulatory approach. While previous fintech offerings were limited to operating on the periphery of traditional financial services (including lending, personal finance and asset management), the sector has now moved to provide the core product offering of many Australian institutional financial service providers, including payments and stored value, wealth and investment, data and analytics, and decentralised finance. In particular, there have been opportunities for fintechs to assist businesses with growing investor preferences for sustainable investing by collating and analysing environment, social and governance data.

In 2025, payments dominated fintech investments, with a continued focus on the modernisation of real-time payments, embedded payments and business-to-business payments. However, 2025 also saw a continued global economic slowdown due to concerns regarding the possibility of recession, rising inflation and interest rates, uncertainties relating to international conflicts and continued issues with global supply chains. As a result of sustained inflation, both the total number and average size of fintech deals decreased in 2025.

Regulators and the Government face the challenge of adapting and aligning existing financial regulation to new products and services, balancing innovation with consumer protection.

The Australian Law Reform Commission (**ALRC**) conducted an inquiry into simplifying Australia's financial services regulatory framework to make it "more adaptive, efficient and

navigable for consumers and regulated entities". The ALRC provided interim reports on three areas: the design and use of definitions in corporations and financial services legislation; the regulatory design and hierarchy of laws; and the potential to reframe or restructure Chapter 7 of the *Corporations Act 2001* (Cth) (**Corporations Act**) (which contains the overarching financial services laws). A final report was tabled in Parliament on 18 January 2024, which found that the current legislative framework for corporations and financial services regulation is overly complex, costly to comply with and difficult to enforce, citing 58 recommendations to streamline financial services legislation. The Government is now considering the report.

Regulators such as the Australian Securities and Investments Commission (**ASIC**), Australian Prudential Regulation Authority (**APRA**) and the Australian Transaction Reports and Analysis Centre (**AUSTRAC**) have become more proactive on licensing, conduct and disclosure, and have taken a more rigorous approach to enforcement.

As the financial sector continues to evolve, regulators and legislators are also looking to modernise the regulation of financial services. There has been a raft of legislative changes and fintechs – particularly those that are motivated to provide financial services in a way that is more convenient, personalised and simplified for consumers – have been well placed to adapt to these changes, and seize the opportunity presented by public dissatisfaction with traditional providers. These changes include:

- On 7 November 2024, the Government introduced the *Scams Prevention Framework Bill 2024* (**Scams Bill**) to Parliament. The Scams Bill drives action against scams through the implementation of onerous scams compliance obligations under the Scams Prevention Framework, which intends to outline the responsibilities of the private sector in relation to scam activity, focusing on banks, telecommunications providers and digital platforms. The Scams Bill was passed by Parliament on 13 February 2025.
- On 10 December 2024, the *Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024* (**AML/CTF Bill**) received Royal Assent. The AML/CTF Bill made sweeping reforms to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (**AML/CTF Act**) to modernise Australia's AML/CTF regime in line with international standards, with reforms set to commence on 31 March 2026.
- On 29 November 2024, Parliament passed the *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024*, requiring buy now, pay later (**BNPL**)

providers to obtain an Australian credit licence (ACL) and comply with the *National Consumer Credit Protection Act 2009* (Cth).

- On 21 March 2025, the Government released a response to the Board of Taxation's review of the tax treatment of digital assets and transactions in Australia, confirming that existing tax laws are applicable to digital assets and transactions, while also recognising that the Australian Taxation Office can assist improving certainty amongst the digital asset industry by issuing targeted guidance.
- On 21 March 2025, the Government released the "Statement on Developing an Innovative Australian Digital Asset Industry" (**Statement**), outlining the Government's future approach to regulating digital assets.
- On 31 March 2025, following public consultation and passing of climate reporting legislation, ASIC published *Regulatory Guide 280: Sustainability reporting* (**RG 280**). RG 280 provides guidance for reporting entities on ASIC's proposed enforcement to sustainability reporting following the introduction of mandatory sustainability reporting requirements that took effect from 1 January 2025.
- On 30 July 2025, APRA released a discussion paper proposing changes to the authorised deposit-taking institution (ADI) licensing framework to streamline the process and better support new entrants. The proposals include introducing formalised licensing criteria, clearer expectations and a defined 12-month timeframe for applicants to demonstrate readiness. APRA is also considering whether to discontinue the Restricted ADI (**RADI**) pathway, due to limited uptake. Submissions closed on 31 October 2025.
- On 12 September 2025, ASIC invited feedback on a proposal to remake *ASIC Corporations (Non-cash Payment Facilities) Instrument 2016/211* for a period of five years as it is due to expire on 1 April 2026. ASIC has stated that it considers the instrument is operating effectively and efficiently. Feedback on the proposal concluded on 8 October 2025.
- On 18 September 2025, ASIC granted the first-of-its-kind relief through the *ASIC Corporations (Stablecoin Distribution Exemption) Instrument 2025/631* (**Instrument 2025/631**), exempting intermediaries engaging in the secondary distribution of a "Named Stablecoin" from holding Australian financial services, Australian market, or clearing and settlement (**CS**) facility licences. On 25 September 2025, ASIC proposed amending Instrument 2025/631 to include another named stablecoin.
- On 29 October 2025, ASIC released a class no-action letter alongside an updated *Information Sheet 225: Digital Assets: Financial products and services* (**INFO 225**). Under the no action letter, ASIC proposes that it will not take enforcement action for certain contraventions of the Corporations Act, subject to certain conditions. The updated INFO 225 follows ASIC's December 2024 consultation (CP 381) and provides an enhanced suite of worked examples to illustrate how existing Australian financial services concepts apply to digital assets as well as setting out ASIC's operational expectations for licensees.
- On 5 November 2025, ASIC released *Report 820* and *Report 823*, which were developed through ASIC's surveillance of the market for private credit funds and its engagement and consultation with industry. ASIC says that these reports establish principles for sound private credit practices that are also relevant to wider private markets.
- On 5 December 2025, ASIC announced that it would extend transitional relief for limited connection and sufficient equivalence relief from 31 March 2026 to 31 March 2027.
- On 9 December 2025, ASIC released *ASIC Corporations (Stablecoin and Wrapped Token) Instrument 2025/867*, following its announcement of proposed relief for distributors of eligible stablecoins and wrapped tokens on 29 October 2025. This finalised instrument closely mirrors the draft instrument released for consultation and grants exemptions from the Australian financial services licence (**AFSL**) regime, market licensing, CS licensing and disclosure requirements for specific digital assets, i.e. eligible stablecoins and wrapped tokens.
- On 16 December 2025, ASIC updated *Regulatory Guide 181 AFS Licensing: Managing Conflicts of Interest* (**RG 181**) following a public consultation between 30 July and 5 September 2025. RG 181 aims to help licensees have robust arrangements and tailored conflict management strategies in place and is part of ASIC's ongoing regulatory maintenance and simplification agenda.
- On 17 December 2025, Treasury released a consultation paper in relation to Australia's Enhanced Regulatory Sandbox (**ERS**). The consultation paper seeks stakeholder input on various issues that will inform the review's final report to the Government, expected by mid-May 2026. The consultation closes on 6 February 2026.
- On 12 March 2026, Treasury released Tranche 1 exposure draft legislation, *Treasury Laws Amendment Bill 2026: Payment Systems Modernisation* (**Payment Systems Bill**), which establishes the foundations for the new payments framework under the existing AFSL regime. The exposure draft legislation introduces three new financial products (stored value facilities (**SVFs**), tokenised SVFs and payment instruments) and three new financial services (payment initiation services, payment facilitation services and payment technology and enablement services). The exposure draft legislation also introduces a new prudential framework for major SVFs and a power to make rules for a mandatory and revised ePayments Code. The exposure draft legislation follows prior consultations on Tranche 1a exposure draft legislation and exposure draft regulations in October 2025.
- On 24 March 2026, the Government passed the *Anti-Money Laundering and Counter-Terrorism Financing (2025 Rules) Amendment Rules 2026* and *Anti-Money Laundering and Counter-Terrorism Financing (Class Exemptions and Other Matters) Amendment Rules 2026*, following a prior consultation on updating the AML/CTF Rules supporting the reform to the AML/CTF Act. The Department of Home Affairs and AUSTRAC are also working to finalise transitional rules to assist with implementation of the new AML/CTF regime.
- On 1 April 2026, the *Corporations Amendment (Digital Assets Framework) Bill 2025* (**Digital Assets Bill**) was passed by both houses of Parliament. The Digital Assets Bill introduces Digital Asset Platforms (**DAPs**) and Tokenised Custody Platforms (**TCPs**) as financial products under the Corporations Act, requiring operators of these platforms to hold an AFSL and comply with additional obligations.
- On 1 April 2026, the *Treasury Laws Amendment (Genetic Testing Protections in Life Insurance and Other Measures) Bill 2025* (**Life Insurance Bill**) was passed by both houses of Parliament. The Life Insurance Bill introduces licensing exemptions for foreign financial service providers (**FFSPs**) that will replace the current limited connection relief and sufficient equivalence relief regimes.

1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptoasset-based businesses)?

Since 2023, a number of major Australian banks have imposed restrictions on customers from contracting with certain “high-risk” cryptocurrency exchanges in an attempt to reduce cryptocurrency-related scams. The Commonwealth Bank of Australia and the Australia and New Zealand Banking Group have implemented limits of AUD 10,000 on transfers to lower-risk cryptocurrency exchanges. Westpac Banking Corporation and the National Australia Bank have banned customers from transferring funds to certain high-risk cryptocurrency exchanges. In 2023, AUSTRAC released guidance on debanking to guide financial institutions’ approach to providing services to higher risk sectors like cryptocurrency and assist cryptocurrency businesses in understanding what information may be required by financial institutions to assess risk.

ASIC also has a product intervention power under which it can intervene where a financial product or credit product has resulted, will result or is likely to result in significant consumer detriment. This power allows ASIC to take a more proactive approach to regulating. ASIC has made product intervention orders relating to various products including preventing the provision of short-term credit and continuing credit contracts with significant fees, bans on providing binary options to retail clients and imposing conditions on the issue and distribution of contracts for difference to retail clients.

Otherwise, there have not been any regulatory prohibitions or restrictions on specific fintech business types. Cryptocurrency-based businesses are permitted in Australia, provided such businesses comply with applicable laws (including financial services and consumer laws).

2 Funding For Fintech

2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?

(1) Equity funding

Businesses can raise equity using traditional private and public fundraising methods (e.g. private placement, initial public offering (IPO), and seed and venture capital strategies), through grants and initiatives offered by Government and State/Territory agencies, and through crowdfunding.

In late 2017, a regulatory framework was introduced for crowd-sourced equity funding (CSEF) by unlisted public companies from retail investors. CSEF involves a company offering its ordinary shares to investors in return for a small cash investment. Unlisted public companies with less than AUD 25 million in assets and annual turnover are eligible to raise funds under the CSEF regime. Eligible companies may raise up to AUD 5 million in any 12-month period under the CSEF framework. While reducing the regulatory barriers to investing in small and start-up businesses, the framework also created certain licensing and disclosure obligations for CSEF intermediaries (i.e. persons listing CSEF offers for public companies). This regime was extended in 2018 to also apply to proprietary companies. While there are a range of reporting requirements imposed on proprietary companies engaging in crowdfunding, there are also a number of concessions made with respect to restrictions that would otherwise apply to their fundraising activities.

There are obligations and investor protections that apply to CSEF offers, including:

- an investor cap of AUD 10,000 *per annum* per company for retail investors;

- the provision of a CSEF offer document containing minimum information and a prescribed risk warning; and
- a five-day cooling-off period.

Under the CSEF framework, there are exemptions for persons operating markets and CS facilities from the licensing regimes that would otherwise be applicable to those facilities. These additional exemptions provide a means by which a person operating a platform for secondary trading can seek an exemption with tailored conditions from more onerous licensing requirements.

ASIC has released *Regulatory Guide 261: Crowd-sourced funding: Guide for Companies* and *Regulatory Guide 262: Crowd-sourced funding: Guide for intermediaries* to assist companies seeking to raise funds through CSEF and intermediaries seeking to provide CSEF services, respectively.

(2) Debt funding

Debt financing is less common than equity financing in the Australian fintech sector; however, businesses can approach financial institutions, suppliers and finance companies in relation to debt finance.

(3) Asia Region Funds Passport and Corporate Collective Investment Vehicles

The Asia Region Funds Passport (**Passport**) was introduced in 2018 and is a region-wide initiative designed to facilitate the offer of interests in certain collective investment schemes, established in Passport member economies to investors in other Passport member economies. It aims to provide Australian fund managers and operators with greater access to economies in the Asia-Pacific region by reducing regulatory hurdles.

The Government introduced a new type of corporate fund vehicle known as a “corporate collective investment vehicle” (CCIV) from 1 July 2022. The policy behind the CCIV regime was to introduce a new type of investment vehicle that is attractive to foreign investors, thereby improving the competitiveness of Australia’s managed funds industry. It is intended to complement the Passport by making Australian funds more accessible to foreign investors.

The Australian funds market is dominated by unit trusts, a structure that historically has been unfamiliar to many offshore jurisdictions where corporate and limited partnership investment vehicles are the norm throughout the Asia-Pacific region. The CCIV was intended to provide an internationally recognised investment vehicle that will be able to be more readily marketed to foreign investors (including through the Passport). However, in practice, unit trusts have continued to be the preferred fund structure for most asset classes.

2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?

Incentives for investors

(1) Early stage innovation company incentives

Incentives are available for eligible investments made in start-ups known as Early Stage Innovation Companies (ESICs), which are generally newly incorporated entities with low income and expenses. Investments of less than 30% of the equity in an ESIC would generally qualify for a 20% non-refundable carry forward tax offset (capped at AUD 200,000 per investor and their affiliates combined in each income year, including any offsets carried forward

from the prior year's investment) and a 10-year tax exemption on any capital gains arising on disposal of the investment (provided they are held for at least one year but less than 10 years).

(2) Venture capital investments

Fintech investment vehicles may be structured as venture capital limited partnerships (**VCLPs**) or early stage venture capital limited partnerships (**ESVCLPs**), and receive favourable tax treatment for eligible venture capital investments. For VCLPs, benefits include tax exemptions for foreign investors (limited partners) on their share of any revenue or capital gains made on disposal of the investment by the VCLP, and concessional treatment of the fund manager's carried interest in the VCLP. For ESVCLPs, the income tax exemption for VCLPs is extended to both resident and non-resident investors, plus investors obtain a 10% carry forward non-refundable tax offset for new capital invested in the ESVCLP.

Incentives for tech and fintech businesses

The Research & Development (**R&D**) Tax Incentive programme is available for entities incurring eligible expenditure on R&D activities, which includes certain software R&D, innovation and product development activities commonly conducted by tech and fintech businesses. Claimants under the R&D Tax Incentive programme may be eligible for one of the following incentives:

- (a) *Small businesses (less than AUD 20 million aggregated turnover)*: a refundable offset of 18.5% plus the claimant's corporate tax rate, which is 25% (if the claimant is eligible for the lower corporate tax rate), providing a total 43.5% refundable tax offset.
- (b) *Other businesses (aggregated turnover of AUD 20 million or more)*: a non-refundable tax offset of the claimant's corporate tax rate, plus an incremental premium of either 8.5% (for R&D expenditure between 0% and 2% R&D intensity) or 16.5% (for R&D expenditure above 2% R&D intensity). A claimant's incremental premium is based on its R&D intensity, which is the proportion of the claimant's eligible R&D expenditure as a percentage of total business expenditure.

General tax concessions for small/medium-sized businesses

Small/medium-sized businesses with aggregated turnovers under certain thresholds can access a range of tax concessions, including, but not limited to, small business restructure roll-over relief, simplified depreciation and trading stock rules, and various capital gains tax concessions. Each concession has different eligibility requirements, which must be reviewed each year. These concessions are intended to support small/medium-sized businesses, reduce their tax burden, simplify compliance and encourage growth.

2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

The ASX sets out 20 conditions to be satisfied in its Listing Rules. Briefly, these include the entity having at least 300 non-affiliated security holders each holding the value of at least AUD 2,000, and the entity satisfying either the profit test or the assets test (which requires particular financial thresholds to be met).

2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

The fintech sector experienced a downturn in notable exits throughout 2025, which was in part due to market instability, inflation and various global pressures. Some notable exits include US software and payments group Xplor's acquisition of Sydney-based fintech Ezypay for an undisclosed amount, ASX-listed online broker SelfWealth's acquisition by Syfe for AUD 63 million and payment service provider (**PSP**) Tyro's acquisition of Australian start-up Thriday. Despite this, Treasury has noted Australia's fintech ecosystem is consistently strong in the global context, with AUD 142 million recorded in fintech investments across 31 deals in the first half of 2025.

3 Fintech Regulation

3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

Broadly, the regulatory framework that applies to fintech businesses includes financial services and consumer credit licensing, registration and disclosure obligations, consumer law requirements, privacy and AML/CTF requirements.

Licensing obligations apply to entities that carry on a financial services business in Australia or engage in consumer credit activities. The definitions of *financial service* and *financial product* are broad, and will generally capture any investment or wealth management business, payment service (e.g. non-cash payment (**NCP**) facility), advisory business (including robo-advice), trading platform, and crowdfunding platform, triggering the requirement to hold an AFSL or be entitled to rely on an exemption. Similarly, engaging in peer-to-peer lending activities will generally constitute consumer credit activities and trigger the requirement to hold an ACL or be entitled to rely on an exemption.

Financial services licensing in relation to payments is undergoing significant regulatory transformation. In July 2023, Treasury closed a consultation on its proposal to modernise the financial services licensing framework PSPs. On 8 December 2023, Treasury released a second consultation paper building on the initial consultation, proposing to impose the AFSL requirement (and accompanying obligations) on PSPs. On 9 October 2025, Treasury released Tranche 1a exposure draft legislation. On 12 March 2026, Treasury released the Payment Systems Bill, which establishes the foundations for the new payments framework under the existing AFSL regime. The exposure draft legislation introduces three new financial products (SVFs, tokenised SVFs and payment instruments) and three new financial services (payment initiation services, payment facilitation services and payment technology and enablement services) to replace the existing "NCP facility" concept. The exposure draft legislation also introduces a new prudential framework for major SVFs and a power to make rules for a mandatory and revised ePayments Code.

In addition to this PSP licensing reform, on 1 April 2026, Parliament passed the Digital Assets Bill, which designates DAPs and TCPs as financial products, requiring operators of these platforms to hold an AFSL. The Digital Assets Bill sets out the meaning of a DAP and TCP as follows:

- A DAP is a facility where an operator holds digital tokens (underlying assets), either for themselves or on behalf of someone else.

- A TCP is a facility where an operator identifies and holds assets other than money, issuing a single digital token for each asset, which grants the holder the right to redeem or direct the delivery of that asset. The operator acts on behalf of the token holder, often as trustee or bailee, and may also be authorised to manage the asset according to the holder's instructions.

The Digital Assets Bill also sets out specific obligations for DAP and TCP operators, including certain disclosure requirements (e.g. platform guide, platform voting policy and platform rules) and the requirement to comply with new minimum standards relating to transactions and settlements as well as asset-holding functions. The Digital Asset Bill commences 12 months after it receives Royal Assent.

Fintech businesses may also need to hold an Australian market licence where they operate a facility through which offers to buy and sell financial products are regularly made and accepted (e.g. an exchange). If an entity operates a CS mechanism that enables parties transacting in financial products to meet obligations to each other, the entity must hold a CS facility licence or otherwise be exempt.

The *Australian Consumer Law (Consumer Law)* applies to all Australian businesses that engage or contract with consumers. The Australian Competition and Consumer Commission (ACCC) has regulatory oversight of the Consumer Law. Obligations include a general prohibition on misleading and deceptive conduct, false or misleading representations, unconscionable conduct and unfair contract terms (UCT) in relation to the offer of services or products. The ASIC Act generally reflects the consumer protections under the Consumer Law and is applicable to the provision of financial services and products.

Fintech businesses may also be captured by the UCT regime as regulated by the Consumer Law and the ASIC Act. The UCT regime aims to protect consumers against unfair terms in standard form consumer contracts or small business contracts. On 9 November 2023, changes to the UCT regime came into effect, making UCTs illegal. UCTs are now subject to significant penalties and the UCT regime vastly expanded the types of small business contracts now captured, which may impact fintech businesses. Terms that are of a standard form consumer or small business contract with an unfair term will now be deemed void by the new regime. The test of how a term is deemed is unfair is assessed on whether the term is (a) not reasonably necessary, (b) causes a significant imbalance in the rights and obligations on the parties, and (c) would cause detriment to the other party if relied upon. The updated UCT regime has also given additional powers to the courts in relation to UCTs; for example, providing the power to injunct people in the future from making contracts that rely on the UCT or from applying or relying on an UCT in an existing contract.

Additionally, in 2018, ASIC received a delegation of power from the ACCC enabling it to take action where there is potential misleading and deceptive conduct associated with crypto assets.

The AML/CTF Act applies to entities that provide "designated services" with an Australian connection. Generally, the AML/CTF Act applies to any entity that engages in financial services or credit (consumer or business) activities in Australia. Obligations include enrolment with AUSTRAC, reporting and customer due diligence.

The *Banking Act 1959* (Cth) regulates those engaged in the business of banking to be authorised by APRA (i.e. be an ADI) before engaging in such business. It also contains the Banking Executive Accountability Regime, which is also administered by APRA and establishes, among other things, accountability

obligations for ADIs and their senior executives and directors, and deferred remuneration, key personnel and notification obligations for ADIs.

The *Payment Services (Regulation) Act 1998* (Cth) (PSRA) provides powers to the Reserve Bank of Australia (RBA) to regulate purchased payment facility (PPF) providers in relation to SVFs. Generally, such holders of stored value must be an ADI or be exempt from the requirement.

PSRA reform has been a key focus of the Government alongside payments reform. On 19 September 2025, the Payment System Modernisation Act received Royal Assent. The Payment System Modernisation Act reforms the PSRA by expanding its regulatory perimeter to include BNPL providers, digital wallets, crypto-asset payment facilitators and cash distribution services. The reforms also introduced a ministerial designation power, enabling the Treasurer to direct nationally significant platforms into enhanced oversight, and broaden the RBA's powers to address emerging risks in the payments ecosystem. On 29 October 2025, the Government invited public feedback on draft regulations that support the Payment Modernisation Act. The feedback period closed on 11 November 2025.

On 12 March 2026, Treasury released the Payment Systems Bill for consultation. The Payment Systems Bill proposes to remove the PPF concept and replace it with a new prudential oversight regime for major SVF providers that meet a certain size in stored value. Major SVF providers will not be licensed as ADIs but rather undergo a registration process and be subject to certain prudential standards and safeguarding arrangements. Submissions closed 9 April 2026.

The *Financial Sector Collection of Data Act 2001* (Cth) (FSCODA) is designed to assist APRA in the collection of information relevant to financial sector entities. FSCODA generally applies to any corporation engaging in the provision of finance in the course of carrying on business in Australia, and APRA collects data from registered financial corporations under FSCODA. Generally, registered financial corporations with assets greater than AUD 50 million need to regularly report to APRA statements of financial position.

The *Financial Sector (Shareholdings) Act 1998* (Cth) creates an ownership limit of 20% in a financial sector company without approval from the Treasurer.

3.2 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory 'sandbox' options for fintechs in your jurisdiction?

Regulators in Australia have generally been receptive to the entrance of fintechs and technology-focused businesses. The financial services regulatory regime adopts a technology-neutral approach, whereby services will be regulated equally, irrespective of the method of delivery. However, further concessions have been made by regulators in order to support technologically-focused start-ups entering the market and numerous reviews are ongoing or have recently been completed in connection with how cryptocurrency, payments and stored value should be regulated.

ASIC has made certain class orders establishing a fintech licensing exemption and has published guidance in *Information Sheet 248: Enhanced Regulatory Sandbox (INFO 248)*. Under INFO 248, the ERS allows for testing of a broader range of financial services and credit activities for a longer duration.

There are strict eligibility requirements for both the type of businesses that can enter the regulatory sandbox and the products and services that qualify for the licensing exemption. Once a fintech business accesses the regulatory sandbox, there are restrictions on how many persons can be provided with a financial product or service and caps on the value of the financial products or services that can be provided.

In the Statement, the Government announced that it would commence reviewing the ERS to ensure that it is fostering innovation. Terms of reference were released on 31 October 2025, and the review will assess the effectiveness of the ERS, consult stakeholders, develop recommendations to enhance Australia's financial innovation settings and provide a final report. Treasury opened a consultation on 17 December 2025, seeking views on:

- The enablers and barriers to financial innovation in Australia (for example, regulatory and policy settings, funding and access to capital, ecosystem and institutional factors, market dynamics).
- The effectiveness of the ERS including comparison with overseas sandbox models.
- How the ERS could better support financial innovation in the context of significant proposed reform to payments licensing and digital assets.

While the review is still in its early stages, current proposed amendments to the ERS include creating a structured off-ramp from the sandbox to a full AFSL and broadening the ERS to accommodate a range of products and services.

Regulators have also committed to helping fintech businesses more broadly by streamlining access and offering informal guidance to enhance regulatory understanding. Both ASIC and AUSTRAC have established Innovation Hubs to assist start-ups in navigating the Australian regulatory regime. AUSTRAC's Fintel Alliance has an Innovation Hub targeted at combatting money laundering and terrorism financing and improving the fintech sector's relationship with the Government and regulators. On 17 July 2025, AUSTRAC announced that it was expanding Fintel Alliance following significant law enforcement success. The Innovation Hub also assesses the impact of emerging technologies such as blockchain and cryptocurrency.

ASIC has also entered into a number of cooperation agreements with overseas regulators under which there is a cross-sharing of information on fintech market trends, encouraging referrals of fintech companies and sharing insights from proofs of concepts and innovation competitions. It is also the intention of a number of these agreements to further understand the approach to regulation of fintech businesses in other jurisdictions, in an attempt to better align the treatment of these businesses across jurisdictions.

It is of note, however, that ASIC has been substantially more active with respect to its investigations and enforcement. Between July 2022 and September 2025, ASIC issued 92 DDO stop orders (including 91 interim and one final stop order) to prevent consumers and investors being targeted by products inappropriate to their objectives, financial situation and needs. ASIC has also pursued a number of high-profile enforcement actions (including commencing proceedings in the Federal Court) for alleged unlicensed activities against fintechs and crypto businesses. This approach is consistent with public statements by ASIC regarding its pursuit of strategic litigation and ASIC's 2025–26 Corporate Plan (**Corporate Plan**), which outlines key focus areas for ASIC to take enforcement action in. ASIC's Corporate Plan highlights strategic priorities as improving consumer outcomes, strengthening market disclosure and professional conduct, supporting better

retirement outcomes and member services, strengthening operational digital and data resilience and safety and driving integrity and transparency across markets. Focus areas under the strategic priorities include, among other matters, climate and financial reporting, scams and use of artificial intelligence (AI), exploitation of superannuation savings and tokenisation and supporting transition to digital asset reforms. Fintech providers and technology-driven new entrants must be cognisant of their financial services obligations when entering the Australian market to ensure adherence to financial services laws.

3.3 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?

Regulatory hurdles include registering with ASIC in order to carry on a business in Australia (generally satisfied by incorporating a local subsidiary or registering a branch office), satisfying applicable licensing, registration and disclosure requirements if providing financial services or engaging in consumer credit activities in Australia (or qualifying to rely on an exemption to such requirements), as well as privacy requirements, and complying with the AML/CTF regime. Broadly, these regulatory hurdles are determined by the extent to which the provider wishes to establish an Australian presence, the types of financial products and services provided, and the type of Australian investors targeted.

In the past, it has been common for FFSPs to provide financial services to wholesale clients in Australia by relying on ASIC's "passport" or "limited connection" relief from the requirement to hold an AFSL. In March 2020, ASIC repealed both passport and limited connection relief and announced the implementation of a new foreign AFSL regime and funds management relief. As part of the 2021–2022 Budget, the Government of the time announced its intention to "restore previously well-established regulatory relief for foreign financial service providers". On 17 February 2022, the Government introduced the *Treasury Laws Amendment (Streamlining and Improving Economic Outcomes for Australians) Bill 2022*, which sought to introduce:

- the comparable regulator exemption, exempting FFSPs authorised to provide financial services in a comparable regime from the requirement to be licensed when dealing with wholesale clients;
- the professional investor exemption, exempting FFSPs that provide financial services from outside Australia to professional investors from the requirement to be licensed in Australia; and
- an exemption from the fit and proper person assessment to fast track the AFSL process for FFSPs authorised to provide financial services in a comparable regulatory regime.

However, this Bill lapsed as a result of a change in Government. Subsequently, on 7 August 2023, Treasury released a much-anticipated consultation and related exposure draft legislation on licensing exemptions for FFSPs. The licensing exemptions were broadly based on the 2022 legislation, including a professional investor exemption, comparable regulator exemption, market maker exemption and fit and proper person test exemption. On 30 November 2023, the Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023 was introduced to Parliament, an updated bill considering the feedback from the August 2023 consultation. In December 2024, the Senate agreed to split the FFSP reforms to *Treasury Laws Amendment (Miscellaneous*

Measures) Bill 2024. However, due to the announcement of the Federal election in May 2025, the updated bill lapsed before the Senate.

On 5 December 2025, ASIC announced it has extended transitional relief for limited connection and sufficient equivalence relief from 31 March 2026 to 31 March 2027. ASIC has also stated that FFSPs currently relying on an individual relief instrument with an expiry date linked to *ASIC Corporations (Repeal and Transitional) Instrument 2016/396* can continue relying on the individual relief instrument until 31 March 2027.

On 1 April 2026, the Life Insurance Bill was passed by Parliament. The Bill introduces three replacement licensing exemptions for FFSPs – a “professional investor” exemption, a “comparable regulator” exemption and a “market maker” exemption. The exemptions will replace the current limited connection relief and sufficient equivalence relief regimes. The Bill received Royal Assent on 8 April 2026 and will commence 9 April 2027.

3.4 How is your regulator approaching the challenge of regulating the traditional financial sector alongside the regulation of big tech players entering the fintech space?

Australian regulators have adopted a multifaceted approach to regulating the traditional financial sector alongside the emergence of big tech players in the fintech space, striving to balance innovation with consumer protection and market integrity. Regulators have sought to take a “technology neutral” approach such that products and arrangements are captured regardless of the underlying technology that is used. In recent years, the Government has passed or proposed to pass a raft of law reforms that amend existing regulations to modernise the law to encompass tech providers, such as BNPL products, and the proposed Payments Strategic Plan. The Payments Strategic Plan seeks to subject digital wallets like Apple Pay, Samsung Pay and Google Pay (i.e. payment solutions offered by big tech companies) to the same level of regulatory scrutiny as traditional financial institutions (that previously has not existed) to maintain the stability and integrity of Australia’s payment system.

The Government has supported the Council of Financial Regulators (CFR), a committee comprising the RBA, ASIC, APRA and Treasury, to address evolving regulatory demands. Established in 1998, the CFR’s mission is to promote the stability of Australia’s financial system and facilitate effective and efficient regulation by Australia’s financial regulatory agencies. The CFR members work together to monitor and discuss regulatory issues, including the integration of big tech into financial services, to achieve a coordinated regulatory response.

The CFR’s approach to harmonised regulation includes:

- identifying significant issues and trends within the financial system, particularly those that could affect Australia’s financial stability;
- facilitating information exchange and regulatory perspectives among regulatory bodies, aiding coordination in areas of overlapping responsibilities;
- streamlining regulatory and reporting requirements to minimise regulatory costs;
- ensuring collaboration among agencies when planning for and responding to financial instability; and
- engaging with international institutions, forums and regulators regarding financial system stability.

Additionally, Australian regulators are intensifying efforts to regulate both big tech and traditional financial service providers

through a unified strategy to tackle scams. On 7 November 2024, the Scams Bill was introduced to Parliament, proposing amendments to the *Competition and Consumer Act 2010* (Cth). The Scams Bill seeks to establish a framework requiring in scope service providers to implement measures against scams associated with their services. This includes imposing substantial penalties for non-compliance, with maximum fines for serious breaches reaching up to AUD 50 million, and creating dispute resolution pathways for consumer redress.

Under the framework, the Minister for Financial Services will have the authority to determine which sectors are captured. These sectors’ participants will be mandated to:

- actively engage in detecting, preventing and disrupting scams;
- adhere to sector-specific codes as mandated;
- report scam-related intelligence to the ACCC and outline scam disruption measures;
- develop comprehensive governance policies concerning scams; and
- establish both internal and external dispute resolution schemes to address customer complaints related to scams.

The Scams Bill was passed by Parliament on 13 February 2025 and received Royal Assent on 20 February 2025. On 28 November 2025, Treasury invited public feedback on draft instruments to implement the Scams Prevention Framework, with the aim of establishing sector designations and industry codes for the banking, telecommunications and digital platforms (including social media and search engines) sectors no later than 30 June 2026. Businesses will be required to be members of the Australian Financial Complaints Authority by 1 September 2026, and supplementary rules are expected by the end of 2027. A consultation on the draft instruments closed on 6 January 2026.

The Australian regulatory approach to fintech and big tech is characterised by a proactive stance that seeks to ensure the safety and integrity of the financial system while fostering innovation. The ongoing legislative efforts and the collaborative work of the CFR reflect a commitment to adapting the regulatory framework in response to the dynamic nature of the fintech landscape.

4 Other Regulatory Regimes / Non-Financial Regulation

4.1 Does your jurisdiction regulate the collection/use/transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?

In Australia, the *Privacy Act 1988* (Cth) (**Privacy Act**) regulates the handling of personal information by Commonwealth Government agencies and private sector organisations with annual turnover of more than AUD 3 million. In some instances, the Privacy Act will apply to businesses (e.g. credit providers and credit reporting bodies) regardless of turnover.

The Privacy Act includes 13 Australian Privacy Principles (APPs), which impose obligations on the collection, use, disclosure, retention and destruction of personal information.

The Privacy Act includes a Notifiable Data Breaches (NDB) scheme. The NDB scheme mandates that entities regulated under the Privacy Act are required to notify any affected individuals and the Office of the Australian Information Commissioner (OAIC) in the event of a data breach that is likely to result in serious harm to those individuals.

In December 2019, the Attorney-General announced that the Commonwealth Government would conduct a review of the Privacy Act. The review formed part of the Commonwealth Government's response to the ACCC's Digital Platforms Inquiry, with the aim to investigate the effectiveness of Australia's current privacy regime. Following the release of the Issues Paper in October 2020 and a Discussion Paper in October 2021, on 16 February 2023 the Attorney-General released the *Privacy Act Review Report (Privacy Report)*. The Privacy Report detailed 116 proposals at a principles level but does not provide an exposure draft of any reform legislation. The Government published its response to the Privacy Report on 28 September 2023 indicating that it "agreed" with 38 of the 116 proposals and "agreed in principle" with a further 68.

On 12 September 2024, the Government introduced the *Privacy and Other Legislation Amendment Bill 2024 (Cth) (Privacy Bill)* into Parliament. The Privacy Bill implements 23 of the 25 "agreed" proposals that were specifically directed at legislative change. The Privacy Bill introduced a range of measures to protect the privacy of individuals with respect to their personal information, including expanding the OAIC powers, facilitating information sharing in emergency situations or following eligible data breaches, requiring the development of a Children's Online Privacy Code, providing protections for overseas disclosures of personal information, introducing new civil penalties, and increasing transparency about automated decisions that use personal information. The Privacy Bill also proposed to introduce a statutory tort in the Privacy Act to provide redress for serious invasions of privacy and amend the *Criminal Code Act 1995* to introduce criminal offences targeting the release of personal data using a carriage service in a manner that would be menacing or harassing (known as "doxxing").

On 29 November 2024, the Privacy Bill was passed by both houses of Parliament, receiving Royal Assent on 10 December 2024, with the amendments enforceable from 10 December 2026. The Privacy Bill implemented most of the original amendments listed above, however key changes relate to new OAIC powers to issue compliance notices and amendments to the tort for serious invasions of privacy.

Consumer data right and access

In response to the Productivity Commissions' report on Data Availability and Use, the Government is implementing the national consumer data right (CDR) framework, which will give customers a right to share their data with accredited service providers (including banks, comparison services, fintechs or third parties), encouraging the flow of information in the economy and competition within the market.

The banking sector was the first sector to be subject to the CDR framework under the "Open Banking" regime. Under this framework, consumers are able to exercise greater access and control over their personal banking data as well as data connected to home loans, personal loans, overdrafts, and business finance. These sharing arrangements are intended to facilitate easier swapping of service providers, enhancement of customer experience based on personal and aggregated data, and more personalised offerings.

In November 2022, the Government introduced the *Treasury Laws Amendment (Consumer Data Right) Bill 2022 (Data Right Bill)* into Parliament, which would implement action initiation (also known as "write access") under the Open Banking regime. The Data Right Bill will allow consumers to instruct accredited organisations to initiate actions, such as payments, on their behalf. The Data Right Bill passed both houses on 15 August 2024 and received Royal Assent on 26 August 2024.

4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?

Yes, the Privacy Act has extra-territorial operation and applies to acts and practices undertaken outside Australia and its external territories in respect of entities that have an "Australian link". That is, where the entity is either an Australian citizen or otherwise established in Australia or "carries on business" in Australia (an **APP entity**).

Under the framework for cross-border disclosure of personal information, APP entities must take reasonable steps to ensure that overseas recipients handle personal information in accordance with the APPs, and the APP entity is accountable if the overseas recipient mishandles the information.

4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.

The Privacy Act confers on the OAIC a variety of investigative and enforcement powers to use in cases where a privacy breach has occurred, but it is largely a complaints-based regime. The enforcement regime empowers the OAIC to:

- investigate a matter following a complaint made by an individual or on the OAIC's own initiative;
- make a determination requiring the payment of compensation or other remedies, such as the provision of access or the issuance of an apology;
- require enforceable undertakings;
- seek an injunction; and
- seek civil penalties not exceeding the greater of:
 - AUD 50 million for a body corporate; or
 - three times the benefit directly or indirectly obtained from the contravention, if this can be determined by a court; or
 - if the court cannot determine the value of the benefit obtained from the contravention, 30% of turnover during the breach period.

4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?

Cyber security regulation has been a key focus of regulators and the Government given the recent high-profile cyber-attacks and the interplay between financial services, financial products and new technologies. However, there are no specific, standalone mandatory cyber security laws or regulations that would apply to fintech businesses.

In August 2020, the Government released its Cyber Security Strategy 2020, which will invest AUD 1.67 billion over 10 years in a tripartite approach to protecting, improving and enforcing Australia's cyber resilience. This will be delivered through action by governments, businesses and the community. The Government has also established an Industry Advisory Committee to shape the delivery of short- and longer-term actions as set out in its strategy. Following a number of high-profile cyber-attacks, in November 2023 the Government released a 2023–2030 Australia Cyber Security Strategy (**Cyber Strategy**) and a 2023–2030 Australia Cyber Security Action Plan (**Cyber Action Plan**). The Cyber Strategy captures the Government's vision to collaborate with industry to improve Australia's management of cyber risks. The Cyber Action Plan supplements the Cyber Strategy and provides clear

steps and deliverables to be undertaken across the next two years in pursuit of a stronger cyber environment. Alongside the Cyber Strategy and Cyber Action Plan, the Government released a consultation paper and sought public input in relation to the future of Australian cyber security and resilience. Submissions closed March 2024.

ASIC provides a number of resources to help firms improve their cyber resilience, including reports, articles and practice guides. ASIC has previously provided guidance regarding cyber security in *Report 429: Cyber Resilience – Health Check* and *Report 555: Cyber resilience of firms in Australia’s financial market*. In these reports, ASIC examined and provided examples of good practices identified across the financial services industry and questions board members and senior management of financial organisations should ask when considering their cyber resilience. ASIC’s *Regulatory Guide 255* also sets out the standards and frameworks against which providers of digital advice should test their information security arrangements, and nominated frameworks setting out relevant compliance measures that should be put in place where cloud computing is relied upon.

In December 2019, ASIC released the first report into the cyber resilience of firms in Australia’s financial markets (**REP 651**). ASIC has since released an updated report for 2020–2021 (REP 716). The reports identify key trends in cyber resilience practices and highlights existing good practices and areas for improvement. REP 651 identified investment, education, acquisition and retention of skilled resources, and strong leadership from senior management as being core factors to maintaining strong cyber resilience. However, ASIC expressed concern towards the trend of outsourcing non-core functions to third-party providers, as this created difficulty when managing cyber security risks in a business’s supply chain. In the December 2021 report, ASIC notes a general improvement in cyber reliance but states that there were no material improvements in supply chain risk management and encourages firms to consider supply chain risk management as an ongoing priority.

Australia has ratified the Council of Europe Convention on Cybercrime (the Budapest Convention), which codifies what constitutes a criminal offence in cyber space and streamlines international cyber crime cooperation between signatory states. Australia’s accession was reflected in the passing of the *Cybercrime Legislation Amendment Act 2011* (Cth).

4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.

The AML/CTF Act applies to entities that provide “designated services” with an Australian connection. Fintech business will often have obligations under the AML/CTF Act as financial services and lending businesses typically involve the provision of designated services. Obligations include:

- enrolling with AUSTRAC;
- conducting due diligence on customers prior to providing any designated services;
- adopting and maintaining an AML/CTF programme; and
- reporting annually to AUSTRAC and as required on the occurrence of a suspicious matter, a transfer of currency with a value of AUD 10,000 or more, and all international funds instructions.

Digital currency exchange providers also have obligations under the AML/CTF Act and must register with AUSTRAC or face a penalty of up to two years’ imprisonment or a fine of

up to AUD 165,000 (or both) for failing to register. Digital currency exchange providers must renew registration every three years. Exchange operators are required to keep certain records relating to customer identification and transactions for up to seven years.

On 11 September 2024, the Attorney-General introduced the AML/CTF Bill to Parliament. The AML/CTF Bill sought to align Australia’s AML/CTF laws with international standards to address three key objectives – capturing higher risk “gatekeeper” professions, simplifying the AML/CTF regime and modernising the regime to reflect changing technologies and illicit financing methodologies. The sweeping reforms to the AML/CTF Act include:

- expanding the AML/CTF regime to additional high-risk services provided by Tranche II entities (namely, lawyers, accountants, trust and company service providers, real estate professionals, and dealers of precious stones and metals);
- extending regulation under the AML/CTF regime for virtual asset and value transfer (payments) services (including payment intermediaries);
- simplifying and clarifying the AML/CTF regime to increase flexibility, reduce regulatory impacts and support businesses to better prevent and detect financial crime; and
- broadening AUSTRAC’s information gathering powers.

The reforms significantly expand the AML/CTF obligations applicable to virtual asset providers, value transfer services and other fintech businesses.

On 29 November 2024, Parliament passed the AML/CTF Bill. The Government made several changes to the initial AML/CTF Bill, including clarifying reporting entities obligations in AML/CTF policies, moving the commencement date of the tipping-off offence-related changes forward to 31 March 2025, updating the simplified outline in the AML/CTF Bill in respect of obligations relating to transfers of value, and amending obligations relating to reports of cross-border transfers of value, among other things. The changes take effect from 31 March 2026.

On 29 August 2025, AUSTRAC tabled the new AML/CTF Rules following a two-stage public consultation process. Amendments to the Rules were released on 24 March 2026. The AML/CTF Rules are contained in two instruments:

- The first instrument sets out the general requirements that align with the new AML/CTF Act, including obligations relating to AML/CTF programmes, reporting groups (formerly “designated business groups”), customer due diligence, travel rule, compliance reports, keep open notices (formerly “Chapter 75 notices”), and correspondent banking relationships.
- The second instrument contains exemptions set out in the *Anti-Money laundering and Counter-Terrorism Financing (Class Exemptions and Other Matters) Rules 2007*.

The AML/CTF Rules will come into effect on 31 March 2026 for current reporting entities, with enrolment opening for newly regulated sectors (i.e. Tranche II entities) on that same date. On 1 July 2026, the obligations under the AML/CTF Rules will apply to Tranche II entities. Additionally, on 22 January 2026, AUSTRAC and the Department of Home Affairs announced transitional rules, which would provide deferral of certain obligations to allow industry more time to comply, including initial customer due diligence provisions and international value transfer service reporting. Some of these obligations are deferred until 1 July 2029, with final transitional rules expected prior to commencement of the regime on 31 March 2026. Current (and future) fintech businesses operating in Australia should closely assess the law reform to ensure that any AML/CTF policies and procedures are future proof for the upcoming law reform.

4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction (for example, AI)?

An entity that conducts any “banking business”, such as taking deposits (other than as part-payment for identified goods or services) or making advances of money, must be licensed as an ADI. For locally incorporated entities, APRA offers a restricted pathway to becoming an ADI, known as a RADI licence. Becoming a RADI may be appealing to new entrants that do not have the resources and capabilities to establish an ADI and need time to develop these resources and capabilities. The restricted pathway allows entrants to conduct limited banking business as a RADI for a maximum of two years, before needing to meet the requirements of the full prudential framework and applying for an ADI licence. The initial conditions on a RADI licence are more restricted than those of a full ADI licence, reflecting the restricted range of activities permitted under the licence. This pathway can assist entrants in seeking the investment required to operationalise the business while progressing compliance with the full prudential framework and an ADI licence application. Entrants that cannot meet the requirements of an ADI are expected to exit banking business. Generally, APRA will subject new ADIs and RADIs to greater prudential supervision than established ADIs in the initial years of being licenced. This includes APRA accounting for the heightened risk profile of new ADIs and RADIs by adopting adjusted capital requirements, contingency planning and deposit restrictions. For new ADIs, APRA will assess the sustainability and track record of the new ADI when determining whether the ADI is established and these adjustments are no longer necessary.

Australia’s approach to regulating AI has generally been a soft-law, principles-based approach. On 7 November 2019, the Government Department of Industry, Science and Resources published eight voluntary principles (**AI Ethics Principles**). The AI Ethics Principles are designed to be utilised by participants when developing, designing, integrating or implementing AI systems to achieve safer, more reliable outcomes. The AI Ethics Principles are part of a larger AI Ethics Framework that is holistically aimed at assisting businesses and governments to responsibly develop and implement AI – known as the AI Action Plan. The AI Action Plan has not been developed in isolation but is to be employed alongside other AI initiatives (such as the Australian Human Rights Commission’s Human Rights and Technology Project and the OECD’s Principles on AI). On 21 October 2025, the Government Department of Industry, Science and Resources published the Guidance for AI Adoption, which outlines six essential practices for safe and responsible AI governance.

Although there are legal regimes that impact how AI is used in the Australian landscape (for example, the privacy regime), there are currently no current laws or regulations that apply specifically to AI in Australia, and it is not anticipated that Australia will move away from the current approach.

Fintech businesses are subject to the prohibitions laid out in the Consumer Law, which is administered by the ACCC.

5 Technology

5.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

Innovations in the fintech space mainly exist as software and are primarily protected by copyright in Australia. Copyright

protection arises automatically upon creation and grants the creator the exclusive rights to use and control how others use the copyrighted material.

It may also be possible to seek patent protections for certain software-related innovations. However, it should be noted that software patents are a complex area of law in Australia, and there are still many uncertainties regarding whether computer-implemented inventions are eligible for patent protections or not. While Australian law has generally been very reluctant to recognise computer-implemented inventions as patentable subject matter, the recent Australian case of *Aristocrat Technologies Australia Pty Ltd v Commissioner of Patents* [2025] FCAFC 131 has signalled a potential shift from this position to a more “permissive” approach that aligns more closely with other major jurisdictions like the US and Europe. Nonetheless, it still remains to be seen how the national IP examiner in Australia will interpret this judgment, which itself is still subject to appeal by the Commissioner of Patents. While we wait for the outcome of a potential appeal, we recommend companies exercise caution when applying to patent their fintech inventions in Australia.

5.2 Please briefly describe how ownership of IP operates in your jurisdiction.

The initial owner of copyrighted materials such as software normally lies with the creator, or if they were created by employees during the course of their employment, with the employer company. It is important to note that in Australia, the assignment of IP ownership must be in writing. As a result, if third-party developers were engaged to create software, they will own the IP in the developed software unless they have entered into a written agreement assigning the IP in the developed software to the party that engaged them (i.e. there is a term in their contractor agreement explicitly assigning over the IP).

5.3 In order to protect or enforce IP rights in your jurisdiction, do you need to own local/national rights or are you able to enforce other rights (for example, do any treaties or multi-jurisdictional rights apply)?

As Australia is party to the Berne Convention, nationals from other signatory countries can protect and enforce their copyright in Australia. There is no separate registration/examination process for copyright in Australia as the right arises automatically on creation.

For registered rights such as trade marks and patents, rightsholders will need to apply to have their mark/invention registered in Australia before they can enforce them. An owner may apply to IP Australia for registered protection of these types of rights. Further, an Australian patent application can be made by way of a Patent Convention Treaty. Similarly, as Australia is a signatory to the Madrid Protocol, it is possible to register a trade mark within Australia through the Madrid “international” trade mark application system.

Finally, Australia does not have a registration scheme or explicit ownership scheme for trade secrets, confidential information and trade secrets are protectable through a cause of action known as breach of confidence. Australian authorities also recognise a principle known as the “springboard doctrine”, meaning that even if confidential information is not used directly by the recipient, a breach of confidence will still arise if the knowledge of the confidential information enables the recipient to bring its own solution to market more quickly.

5.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

In Australia, there are several popular approaches to commercialising IP. These are:

- **Assignment:** An outright sale of IP, transferring ownership to another person without imposing any performance obligations.
- **Direct in-house use of IP:** Owners of IP may commercialise the IP within an existing entity already in their control.
- **Licensing:** Permission is granted for IP to be used on agreed terms and conditions. There are three types of licence (exclusive licence, non-exclusive licence and sole licence) and each comes with conditions.
- **Franchising:** A method of distributing goods and services, where one party (franchisor) grants another party (franchisee) the right to use its trade mark or trade name as well as the use of its business systems and processes in return for payment and royalties. These licensed rights are used by the franchisee to provide goods or services to agreed specifications controlled by the franchisor.
- **Start-up or spin-off:** Where a separate company (either new (start-up) or partitioning from an existing company (spin-off)) is established to bring a technology developed by a parent company to the market. IP activities to be

carried out for spin-offs include due diligence, confidentiality, employment contracts, assignment agreements and licence agreements.

Broadly, a business can only exploit or monetise IP that the business in fact owns or is entitled to use. Restrictions apply to the use of IP that infringes existing brands, and remedies (typically injunctions and damages) are available in circumstances of infringement.

It also important to be aware of recent changes to Australia's merger control regime. Under the new regime, certain transactions involving the licensing or transfer of IP in Australia will require notification to the national competition regulator for approval. Notification is required if:

- The combined Australian revenue of the parties to the transaction (including related bodies corporate and connected entities of the buyer) is at least AUD 200 million, and either the revenue attributable to the assets being acquired is at least AUD 50 million, or the global transaction value is at least AUD 250 million.
- For very large acquirers (Australian revenue over AUD 500 million), notification is triggered if the revenue attributable to the assets being acquired is at least AUD 10 million.
- Serial acquisitions are also captured, with a three-year look-back for previous acquisitions of the same or substitutable/competitive goods or services that cumulatively meet the above thresholds.



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