

A photograph of the Tyro FinTechHub logo, which consists of the words "Tyro FinTechHub" in a glowing, neon-style font. The logo is mounted on a dark wall. To the right of the logo, a man in a grey shirt and a woman in a black top are partially visible, appearing to be in a meeting or discussion.

Tyro FinTechHub

Submission to ASIC

Further measures to facilitate innovation in financial services

July 2016





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Introduction

Tyro Fintech Hub is Australia's premier location for start-ups across the full spectrum of fintech. It is Australia's first dedicated space for financial services start-ups.

The dozens of companies who call Tyro Fintech Hub home have, over the past 18 months, raised several million dollars in investment, provided many new jobs, and played a vital role in the ongoing transformation of financial services in Australia.

Tyro Fintech Hub was founded, and is operated by, entrepreneurs. As such it is highly entrepreneur-centric – placing the needs of founders and the well-being of their ventures first and foremost.

We are pleased to contribute this submission in response to ASIC's consultation paper (#260) *Further measures to facilitate innovation in financial services*.

A1 – Measures considered

We agree that ASIC should put in place additional measures to facilitate innovation in financial services. The ‘democratisation’ of financial services that is promised via new technologies and business models can transform financial services in Australia to the great benefit of consumers, and the economy. This has been clearly demonstrated in other industries, as well as within financial services in foreign jurisdictions. Regulation is vital in financial services, but must be balanced if new entrants are to gain a foothold whilst consumer confidence is maintained. Seeking to adjust regulatory hurdles accordingly is vital if innovation is to flourish in Australia’s financial services sector.

B1 – Additional guidance on assessing knowledge and skills under Option 5 of RG 105

The proposal to provide additional guidance on assessing a responsible manager is very welcome.

Anecdotally, we are aware that new entrants may tend to rely on Option 5, and that they are confused by the requirements.

Providing clear and detailed examples of how ASIC applies Option 5 is an excellent step in ensuring the requirements are understood prior to submitting an application.

In addition we suggest that ASIC consider a mechanism whereby a prospective applicant may seek ASIC’s view, or an ‘informal steer’ on the suitability of the applicant’s proposed responsible manager separate to a broader application; ie., an applicant could learn if its responsible manager is acceptable, or is likely to be acceptable, prior to submitting a full application.

If the ‘responsible manager’ element of many applications is where new entrants stumble, then addressing it up front may save time and expense for both ASIC and applicants.

C7 – Sandbox Sponsorship

We are strongly of the view that the proposed AFS licensing exemption **should not** involve sponsorship by not-for-profit associations or entities.

This proposal is similar enough to the FCA ‘sandbox umbrella’ proposal to suggest that the FCA’s sandbox paper is the genesis of this proposal, however the changes apparent in ASIC’s proposal drastically change its shape.

Our concerns are:

- Whilst the FCA proposes that an industry body sets up a not-for-profit company to shelter unauthorised innovators, the ASIC proposal is instead that there be “sponsors” (plural), and does not require that these sponsors be set-up by an industry association.
- The sponsors proposed by ASIC are “not-for-profit fintech hubs” and VCs, both of which would have significant conflicts of interest in sponsoring sandbox applicants.
- There is a further conflict of interest in that such hubs and VCs are largely funded by financial services incumbents – the very corporations that the best new entrants are seeking to disrupt.
- The authority to sponsor sandbox applicants would undoubtedly be wielded as a weapon of competitive advantage in seeking to attract startups to their commercial activities. (The moniker “not-for-profit fintech hub” should not disguise the very real need for such organisations to attract and retain corporate sponsors and thus to act no differently to ‘for-profit’ organisations.)
- Under this proposal ASIC could be accused of distorting the fintech startup ecosystem, for instance by disadvantaging fintech hubs that are not registered as “not-for-profit” (but which nevertheless operate at a loss) and are therefore ineligible to become a sandbox sponsor, or which do not have the resources or appetite to act as a sandbox sponsor.
- ASIC would also be disadvantaging the many fintech startups who have made an explicit decision to avoid a hub which is financed by banks and other incumbents.
- Similarly, ASIC should avoid forcing a fintech startup to engage with a VC firm in order to receive sponsorship, especially when that startup may

have received funding from a competitor VC, or the VC firm has funded a competitor startup.

- Such scenarios are very real and in fact magnified in a small market such as Australia. The proposed sponsors are not neutral players and therefore should not be tasked with sandbox sponsorship.
- Whilst the ASIC proposal states that “industry has suggested [applicants] should be sponsored by a ‘sandbox sponsor’” we say that only a very small segment of industry believes this should be the case, and further, those putting the suggestion forward are mostly from organisations wishing to be appointed as sponsors, rather than seeking to be sponsored.
- For the avoidance of doubt, Tyro Fintech Hub has no intention nor desire to become a ‘sandbox sponsor’.
- The financial services sector in Australia is littered with examples of anti-competitive behaviour, especially towards new entrants. Without direct ASIC responsibility for the proposed sandbox there is a risk of it imposing new costs, stifling competition and distorting the market in favour of incumbents.
- C7Q3 – We instead ask: How does ASIC propose to deal with complaints against sponsors and to investigate cases where applicants have been dealt with unfairly?
- The sponsorship process proposed (paragraph 93) is inadequate and describes only cursory consideration of applicants.

C8 – Notifying ASIC

- A testing business should not need to have evidence of a sandbox sponsor (proposal b).