

# A DEREGULATION PLAN FOR AUSTRALIAN SMEs

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# Executive Summary

**“We will cut red tape – there will be a bonfire of the regulations.” The Hon. Tony Abbott MP, 26 March 2013**

National Australia Bank (NAB) welcomes the opportunity to contribute to the Federal Government’s deregulation initiative.

NAB is a financial services organisation employing over 42,000 people and operating more than 1800 stores and business banking centres globally. Our major financial services franchises are in Australia with international businesses in New Zealand (NZ), Asia, the United Kingdom (UK) and the United States (US). NAB’s Business Banking division services the full spectrum of the business sector, from small businesses through to Australia’s largest ASX-listed companies.

NAB has a long history of putting the customer at the centre of everything we do and this document has been prepared in this spirit. It provides the top 11 deregulation opportunities for Australian businesses with a particular focus on the challenges and concerns of micro, small and medium sized enterprises. In April 2014, NAB presented the Federal Government with ‘A Plan for Deregulation’ which detailed deregulation opportunities in the financial services industry. This document mirrors the format of that earlier publication and takes some content from it.

The findings have been based on feedback from NAB customers, consultation with a wide variety of industry groups representing the small-medium enterprise (SME) sector and NAB’s experience as the largest business bank in Australia. The recommendations are measures which will reduce compliance costs and in turn help to promote growth and strengthen the economy. While the needs of small businesses vary widely, there are some common themes in the identified measures NAB feels would have broader benefits to the SME sector.

As with NAB’s initial response to the Government’s deregulation initiative, this document is guided by the principle of improving the experience of our customers. Further, in compiling this document NAB has again had regard for the five principles of deregulation (listed below) outlined by Parliamentary Secretary, the Hon Josh Frydenberg MP in his speech to *The Sydney Institute* on 28 October 2013:

1. Reduce the volume of regulation
2. Eliminate extensive duplication and regulatory overlap
3. Improve the quality of consultation
4. Ensure rigorous and mandatory post implementation reviews
5. Ensure regulators are transparent, accountable and efficient

In addition to providing information responding to the Government’s five principles, NAB has detailed additional information in the following four areas:

- Digital opportunities
- Lack of clarity in existing regulation
- Lack of national consistency – items for consideration by COAG
- Reducing the cost of doing business

Since 2009, through our *Fair Value* agenda, NAB has made a number of changes to products aimed at ensuring a fair exchange of value exists with its customers. These include being the first bank to remove dishonour fees on personal transaction accounts and abolishing monthly account-keeping fees on our most popular everyday transaction account.

For business customers, NAB abolished a range of fees in 2010 that included the abolition of overdrawn fees for amounts up to \$1,000 and the abolition of fees for dishonoured cheques and electronic payments (both either by the business or someone paying the business). NAB’s wealth business was also the first wealth manager to remove volume related bonuses in 2004 and in 2006, MLC was the first Australian wealth manager to move away from commission based remuneration for financial advisers in favour of a fee-for-advice model.

NAB’s future success is dependent on the success of our customers so NAB seeks to further improve the experience of SMEs through working with the Government to support these deregulation measures.

# Consultation

In preparing this document, NAB engaged extensively with representatives of the small business community. We thank each of the below organisations for their contributions.



Council of Small Business of Australia



# Importance of small business and NAB's support for SMEs

Small business has variously been described as the 'lifeblood', 'engine room', and a 'key driver' of the Australian economy. There is little doubt about the importance of small businesses to Australia's future economic growth and ongoing prosperity.

The raw figures alone demonstrate the opportunity. Small businesses make up between 95 and 97 per cent of all Australian businesses.<sup>1</sup> As at June 2011, in the Australian economy 95.9% of businesses were small businesses, 3.8% were medium sized businesses and only 0.3% were large businesses.<sup>2</sup> According to the Australian Bankers' Association (ABA) and Council of Small Business of Australia (COSBOA), there are two million small businesses in Australia which employ 49 per cent of all workers.<sup>3</sup> The Productivity Commission has noted that small businesses are particularly prevalent in certain industries such as "construction; professional and technical services; rental and real estate services and agriculture."<sup>4</sup>

The financing and success of Australian SMEs is an important public policy issue given its impact on the broader national economy. As Australia's largest business bank, NAB views our relationship and engagement with this sector as critical and believe it is unmatched by other financial institutions.

NAB plays an important role in the national economy, particularly through lending to individuals and businesses as they seek to create jobs and generate wealth. Employment and wealth creation are supported by good quality business lending.

No bank has done more to support the SME sector in the past five years than NAB. During the height of the GFC, NAB's lending to small businesses grew by (net) \$5bn whilst in aggregate the other banks reduced lending by \$28bn. In the two year period between November 2008 and November 2010 NAB grew its overall business lending by \$9.5bn whilst the rest of the industry collectively reduced business lending by \$58.6bn.<sup>5</sup> NAB accords a high premium to our long-term relationships with customers by supporting them through good times and more challenging periods.

In the year to March 2014, NAB accepted 97% of the 8,943 applications by small businesses for business lending of up to \$1m.<sup>6</sup> Since then, NAB has continued to accept applications at that rate and trending even higher.<sup>7</sup> In early November 2014, NAB launched a campaign to lend \$1 billion a month to Australian business, further reinforcing NAB's commitment to Australian businesses.

A 2013 report commissioned by the ABA and COSBOA reinforced NAB's experience. It found:

- Almost nine in every ten (89 per cent) of small businesses said they did not see access to finance, or the capacity to finance further growth in their business, as an *'issue'*.<sup>8</sup> Of the remaining 11 per cent, 7 per cent already had a loan and 4 per cent did not
- Amongst the twenty major concerns raised by small businesses, access to finance rated 15<sup>th</sup>
- Concerns about Government regulation rated higher and were the fifth highest concern<sup>9</sup>

1 Productivity Commission 2013 Regulator Engagement with Small Business, Research Report, said "over 95 per cent of Australia's businesses are 'small'; The ABA and COSBOA report said "small businesses account for 97 per cent of all businesses"

2 Department of Industry, Innovation, Science, Research and Tertiary Education, 'Australian Small Business – Key Statistics and Analysis', 1 December 2012, available at <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2012/sml-bus>

3 Australian Bankers' Association (ABA) and the Council of Small Business Associations of Australia (COSBOA). "www.bankers.asn.au/small\_business\_access\_to\_finance".

4 Productivity Commission 2013, Regulator Engagement with Small Business, Research Report, Canberra, p3

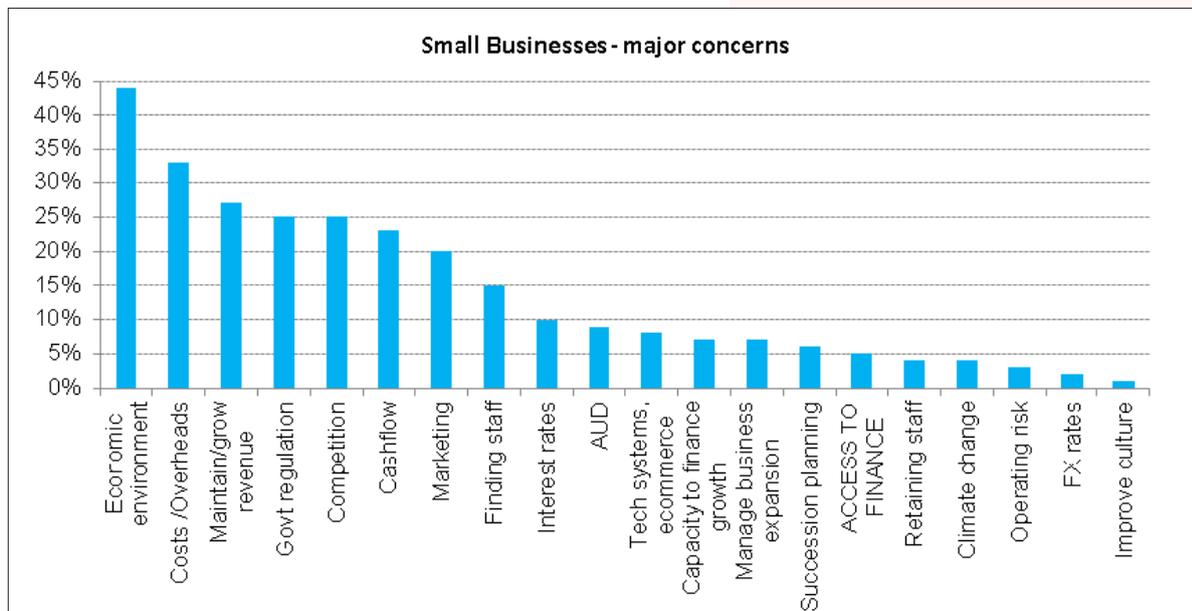
5 For further detail, see NAB's submission to the Parliamentary Joint Committee on Corporations and Financial Services' inquiry into Access for Small and Medium Business to Finance, April 2011, available at <http://www.aph.gov.au/DocumentStore.ashx?id=cb466fa4-a1fa-486c-98f6-2ce3e9930511>

6 81.1% were accepted; 9.1% were pending a decision; 6.8% were not taken up (either the applicant accepted a competing offer for finance, or withdrew their application). Applications are for all business lending applications of less than \$1 Million processed through NAB's automated credit-decisioning tool and does not include applications for Home Lending, SMSF, Agribusiness Products or Asset Finance.

7 See comments from David Bannantyne, NAB General Manager of Small Business, in 'It's an open book' by Sophie Elsworth, Herald Sun, Tuesday 7 October, p26

8 Australian Bankers' Association (ABA) and the Council of Small Business Associations of Australia (COSBOA), Small Business: Access to Finance Report Year to March 2013, p.27, available at: "www.bankers.asn.au/small\_business\_access\_to\_finance".

9 The survey was between April 2012 to March 2013 and the most significant concern for small business was the economic environment



Along with providing small business customers with banking and financial services products, NAB also offers customers additional information and services to help them grow and prosper. Two examples are explained below:

**i. The Village**

Located at NAB’s office at 700 Bourke Street in Melbourne, the Village is an example of NAB’s innovative support for the SME sector. Officially launched in February 2014 by the Minister for Small Business, the Hon. Bruce Billson MP, the Village is space at a NAB office for SMEs, suppliers or partners to work and collaborate. They are also able to learn from NAB experts through regular events. As at September 30 2014, the Village had 1018 members and supports 479 NAB small business customers across 852 different organisations (including SMEs, not-for-profits and other customers) since its launch. Members of the Village have been consulted in preparing this document.



**ii. Quarterly SME Survey**

The NAB economics team also produces a quarterly SME Business Survey, complementing the monthly NAB Business Survey. The survey of around 700 SME firms in the non-farm sector, provides measures of confidence, conditions, cash flow, trading conditions, profitability and employment specifically in the SME sector. It is valuable research offering insight into the challenges and opportunities facing SMEs across various industries.

# National Small Business Day

In recognition of the important role small business plays to the broader economy in providing employment and contributing to economic growth, NAB proposes the establishment of an annual National Small Business Day to celebrate and highlight this contribution. The day would act as a focal point across all levels of Government for the small business community.

Overseas, commercial providers have adopted a similar day which has delivered tangible benefits to the small business community. In the United States, Small Business Saturday (occurring on the Saturday after Thanksgiving) has existed since 2010 after being founded by American Express. In 2012, an estimated \$5.5 billion was registered in sales to independently owned small businesses on the day alone, from the shopping activities of more than 70 million people.<sup>10</sup> The day's growth over the four years is instructive for the opportunities a national approach offers. Locally, Victoria has celebrated a Support Small Business Day since 2013. Most recently celebrated on Saturday 4 October 2014, the day encourages Victorians to explore their local communities, purchase goods from a local small business and celebrate the contribution Victorian SMEs make to the local economy. Queensland this year also held the state's second Small Business Week which included a day Buy Locally Saturday on 6 September. These local examples could be expanded nationally.

NAB believes such a day would offer due recognition to the SME sector and their importance to Australia's ongoing economic prosperity. It would serve as an annual check point and reminder that the best efforts of all Australian organisations can be orientated towards furthering the interests of Australian small businesses. Participants and promoters could include all levels of Government and all major retail tenancy companies. NAB stands ready to work with the Government on the creation of a national day to celebrate this important constituency.

## Recommendation 1

The Federal Government create a National Small Business day as a nationwide day of action to recognise and celebrate the sector's importance to the economy. The US Small Business Saturday and the Victorian Government's Support Small Business and Buy Locally Saturday in Queensland provide models for the Government to consider adopting.

## OPPORTUNITIES IN PAYMENTS TECHNOLOGY

Consideration should be given to whether the ATO and banks can work together to harness current and emerging payments technology to eliminate the need or simplify the requirement for small businesses to lodge Business Activity Statements and income tax returns. For example, a coffee shop's business bank account could possibly be configured such that all payments in and out were within the GST system. At the end of each day the bank would settle the coffee shop's GST liability to the ATO on that day's net takings (or process a refund from the ATO if for that day the coffee shop actually lost money). If a standard income tax rate also was to apply to the coffee shop then income tax could also be remitted on a daily basis (and conversely refunds if the trading day gave rise to a tax loss). Obviously, there would be much detail to work through but the opportunity to effectively remove tax compliance obligations for small business in Australia is a significant prize to pursue.

## Recommendation 2

The Federal Government sponsor a working group, convened by the ATO and with representatives from the banking and payments industry to consult and advise on the feasibility of using the existing and future payments system capability to lower the frequency or eliminate the need for small businesses to individually lodge BAS and income tax returns.

<sup>10</sup> Jeanne Hulit, Acting Administrator of the US Small Business Administration, 'On November 30<sup>th</sup>, start the holiday season by shopping small', The White House Blog, 25 November 2013, available at <http://www.whitehouse.gov/blog/2013/11/25/november-30th-start-holiday-season-shopping-small>

# Benefits of Regulation

Regulation plays an important role in creating an environment where people feel confident and comfortable to start a small business. It provides prospective SMEs with the necessary protections and framework to successfully create an enterprise and offers the possibility for growth if the business is successful.

The right regulation encourages competition in a market-based economy which in turn can benefit consumers through lower prices and a wider array of choice. Importantly, the benefits of regulation should always be weighed against its costs to ensure the costs are, at the very least, no higher than the benefits.

For small businesses, regulation is particularly important to create confidence in the SME sector and provide a minimum level of service or safety. For instance, food safety and handling requirements build confidence in the hospitality sector among consumers by setting standards which small and larger businesses must meet. Indeed the Productivity Commission highlights that “most businesses want to be found compliant with regulatory requirements” and want other businesses to be compliant in order to provide a level playing field and benefit the broader industry.<sup>16</sup> For example, breaches of food safety and handling requirements will obviously impact the business who breach the requirements but can also have broader impacts on businesses in that sector by reducing public confidence in the hospitality industry. Regulation therefore gives confidence to consumers which otherwise may not have existed.

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<sup>16</sup> *Ibid*, p38

# Responding to Regulation

Complying with regulation can be a significant but necessary cost for businesses of any size. It is widely acknowledged that compliance costs have a larger proportional impact on small businesses than larger ones due to their lack of specialist staff to conduct compliance activities and the relative impact on their cost base. Federal Treasury recently noted the greater impact of regulation on SMEs means “it is more likely that the costs of regulation applied to a small business will outweigh the benefits of the regulation than is the case for larger business”.<sup>17</sup> In June 2014, the Minister for Small Business, the Hon. Bruce Billson MP, said small businesses “are particularly burdened by government regulation” due to not having the resources of larger businesses.<sup>18</sup> This resourcing difference means there is particular importance in ensuring regulation applying to small business is relevant, clear and appropriate. Indeed, Treasury identified deregulation affecting small business as one of three areas which provide the largest scope for compliance cost savings.<sup>19</sup>

## THE FINANCIAL COST OF REGULATION

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Studies and various recent surveys by industry groups support the contention that compliance costs impact proportionally more on smaller businesses. The 2011 Australian Industry Group (AiG) CEO Survey (which surveyed close to 140 small businesses) found that small businesses spent an average of 5 hours per week complying with regulation and spent 3.5 per cent of their total annual costs on hiring external consultants to assist with compliance activities.<sup>20</sup> Respondents said waiting for a regulatory decision, being involved in developing new regulation and finding information were the most costly phases of the regulatory compliance process. Similarly the 2012 Australian Chamber of Commerce & Industry (ACCI) National Red Tape Survey (which surveyed 870 businesses, with the majority of respondents having between 1 and 49 employees) found 44 per cent of respondents spent between 1 to 5 hours per week complying with regulation and 42.4 per cent of respondents spent more than \$10,000 complying with government regulatory requirements.<sup>21</sup>

## THE COST TO PRODUCTIVITY AND TIME

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The cost of compliance is not just a dollar figure but also the time associated with becoming compliant. Small business owners in particular are often unfamiliar with compliance requirements so require additional time to understand and fulfil them. Compliance costs for small businesses can include the time to research new requirements, completing and lodging forms, maintaining systems and preparing for enforcement activities such as inspections.<sup>22</sup> As the Institute of Public Accountants (IPA) has noted, a small business owner’s time is one of their “greatest finite resources”, so changes to regulation which free up their time can allow SMEs to reinvest the time back into their business to enable growth.<sup>23</sup>

The Australian Tax Office (ATO) this year introduced an ‘after hours call back’ service, allowing an online booking for a call back between 6pm and 9pm weekdays to better suit the needs of small businesses.<sup>24</sup> Initiatives such as this are welcomed and an acknowledgment of the significant time pressures small businesses often face.

The impact of complying with regulation varies depending on a small business’s industry, activities and size. The cost structure of a business, their competitors and the extent to which a business faces specific regulation related to its activities or industry in addition to general requirements faced by most businesses, also impacts the extent to which compliance costs fall disproportionately on SMEs.<sup>25</sup>

Adhering to new regulation may require changes to an SME’s information technology systems which are typically time intensive and incur a significant cost. Small business in particular will look to “optimise the timing of investments in compliance tools” so any decision to renew a technology system or software would ideally be done so new compliance requirements are met with that investment.<sup>26</sup>

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17 Federal Treasury Economic Roundup Issue 2, 2014, ‘Deregulation in Australia’, p71

18 Bruce Billson speech, 20 June 2014, Address to the G20 Agenda for Growth: Opportunities for small and medium enterprises conference, Melbourne

19 Federal Treasury Economic Roundup Issue 2, 2014, ‘Deregulation in Australia’, p70. The other areas were ‘deregulation aimed at large populations’ and ‘tax related deregulation’

20 Ai Group submission to Productivity Commission Research Report into Regulator Engagement with Small business, p5

21 Australian Chamber of Commerce and Industry (ACCI) National Red Tape Survey, October 2012

22 Productivity Commission 2013, Regulator Engagement with Small Business, Research Report, Canberra, p36

23 Institute of Public Accountants, Australian Small Business White Paper Summit, 2014, p4

24 Commissioner of Taxation Chris Jordan, ‘Deregulation – balancing our service delivery and regulatory roles in a real time environment’, Address to the Council of Small Business of Australia 12<sup>th</sup> National Small Business Summit 2014, 8 August 2014

25 Productivity Commission 2013, Regulator Engagement with Small Business, Research Report, Canberra, p36 and p73

26 Productivity Commission 2013, Regulator Engagement with Small Business, Research Report, Canberra, p84

## COMPLIANCE COSTS FOR THE SMALL BUSINESS ECONOMY

Minimising a SME's costs can help an enterprise prosper, give them the best chance to be successful and remove disincentives to starting a small business. As the Productivity Commission has noted, "high regulatory compliance costs can undermine a business's profitability".<sup>27</sup> Excessive regulatory compliance costs can also cause otherwise profitable and value adding businesses to cease or act as a disincentive for businesses to expand. The expansion of a small business may mean hiring staff in addition to the owner/operator, prompting the requirement to "comply with employment regulations and related compliance costs", which may discourage some operators from expanding.<sup>28</sup> The ACCI 2012 National Red Tape Survey found 54 per cent of businesses said regulatory requirement had prevented their business from growing.<sup>29</sup>

Encouraging business creation is also important to Australia's broader economy and system of fostering innovation. This is particularly the case for SMEs as most large-scale businesses begin as much smaller enterprises, particularly in areas such as technology. If regulation and compliance impose unnecessarily high start-up costs then entrepreneurs may choose not to start a business or instead do so offshore, with Australia subsequently missing out on the job creation and innovation a prospective firm may have contributed to the economy. As the Federal Government highlighted in the 2014 budget papers, "high costs of entry and exit have the potential to discourage the type of start-up companies that often pioneer new technologies and work practices and may also shield incumbent firms that may be less efficient from new competitors".<sup>30</sup>

Along with the amount of regulation firms must comply with, the rate at which regulation is changing must also be considered when assessing the cost of compliance.<sup>31</sup> Significant regulatory change in a short time can prove problematic for firms and individuals as they must understand regulations which apply to them and monitor for any changes.<sup>32</sup> This is particularly the case for SMEs who bear a larger proportion of compliance costs than larger businesses so both broad and more specific measures should be considered to better manage the flow of regulation and its introduction.

### Recommendation 3

The Government should consider designating a predetermined number of dates each year for the purposes of commencement and compliance with all major regulatory initiatives. A 2006 Business Council of Australia proposal for all legislation to only come into effect on one or two possible dates each year should be revisited with a view to adoption, either across the economy or at an industry level.

Regulation has a cumulative impact which can be greater than the sum of the constituent parts, often due to overlap and duplication of regulation. Consideration of prospective regulation without reference to existing regulation can add to this cumulative burden. Regulation for small businesses should be considered within the wider context of reform and existing obligations. While individual regulations may not be burdensome, according to the Productivity Commission "the combined or cumulative burden [of regulation] can have a major impact on the development and growth of small business."<sup>33</sup>

<sup>27</sup> *Ibid*, p70

<sup>28</sup> *Ibid*, p71

<sup>29</sup> ACCI National Red Tape Survey, October 2012. 27.7% said compliance had prevented businesses from making changes to grow the business and 26.6% said compliance had somewhat prevented growth

<sup>30</sup> Treasurer Joe Hockey, '2014 Budget Paper No 1: Budget Strategy and Outlook 2014-15, Statement 4: Sustaining Strong Growth in Living Standards', p4-17

<sup>31</sup> Federal Treasury Economic Roundup Issue 2, July 2014, 'Deregulation in Australia', p60

<sup>32</sup> Federal Treasury Economic Roundup Issue 2, July 2014, 'Deregulation in Australia', p71

<sup>33</sup> Productivity Commission 2013, *Regulator Engagement with Small Business*, Research Report, Canberra, p36

# Definition of small business

***“There should be a whole of government (both federal and state) approach to the definition of small business.”***  
Institute of Public Accountants, Australian Small Business White Paper Summit, 2014, p4

There are a myriad of definitions of small businesses. Some focus on number of employees, revenue, turnover or lending. Regardless of the definition adopted, small businesses are invariably not a larger business on a smaller scale “but one that operates in a fundamentally different way”.<sup>11</sup> They have different needs, operational requirements, types of customers and often different relationships with their customers.

The Australian Bureau of Statistics (ABS) definition is perhaps the most widely used and focuses on the number of employees. The ABS defines small business as an actively trading business with 0-19 employees with micro businesses being those with 0-4 employees.<sup>12</sup> Medium businesses are those with 20-199 employees and large ones with 200 or more employees.<sup>13</sup>

The Productivity Commission stated its belief in 2013 that “it is neither feasible nor appropriate to develop a single definition (qualitative or quantitative) of small business that would be suitable for all regulatory purposes”.<sup>14</sup> It noted that definitions should be “fit for purpose” but said regulators and government should be aware that different definitions “do add to small business compliance costs”.<sup>15</sup>

NAB uses a definition of small business in order to categorise customers into segments so they receive the best and most appropriate products and services. NAB uses revenue and number of employees to categorise small business customers. Small and micro businesses usually have less than \$5 million in revenue and or less than 20 employees. Customers in this segment range from start-ups to expanding and mature businesses across a range of industries. NAB understands the challenges in adopting a single definition of small business but in order to reduce compliance costs and administrative burden a more consistent approach is required. NAB strongly encourages a greater uniformity of definitions, particularly across large regulators and state and federal government departments. Adopting existing small business definitions rather than creating new ones is also encouraged.

## **Recommendation 4**

As part of a whole of government approach, state and federal government departments adopt a greater uniformity in their definitions of small business in order to reduce compliance costs, particularly for businesses that operate in multiple jurisdictions. A national glossary of such terms should be agreed by all government agencies with the federal government taking the lead to provide a national reference point.

<sup>11</sup> Productivity Commission 2013, *Regulator Engagement with Small Business, Research Report, Canberra, p29*

<sup>12</sup> Department of Industry, Innovation, Science, Research and Tertiary Education, *Australian Small Business – Key Statistics and Analysis, 1 December 2012, pVII*

<sup>13</sup> *Ibid*

<sup>14</sup> Productivity Commission 2013, *Regulator Engagement with Small Business, Research Report, Canberra, p32*

<sup>15</sup> *Ibid, p32-33*

# The Government's Five Deregulation Principles

## 1. REGULATORY VOLUME

### 1a) Reporting requirements

***“The cost of data and information collection must be carefully considered, and weighted against expected benefits.”***  
2010 OECD framework.<sup>34</sup>

It is important that regulators receive timely and accurate data from supervised entities. The benefits in providing this information though should be carefully weighed against its need and the considerable preparation time required. As with larger businesses, the frequency, timeframes and content required in all reports from small businesses should be regularly evaluated to ensure they remain relevant and the information continues to be required. Requests for new or additional information should at least be offset by the removal of requirements considered redundant.

The Productivity Commission detailed the concerns of small business “about the unnecessary burden of providing the same or similar information to multiple regulators... or the same regulator more than once.”<sup>35</sup> The IPA says small businesses, along with larger ones, face a “plethora of reporting obligations”, such as health and safety and tax.<sup>36</sup>

The top two ranked measures in the 2011 AiG CEO survey on items which would have the greatest impact on reducing regulatory compliance both related to reporting. 25 per cent of respondents nominated the ‘establishment of reliable electronic and web-based reporting’ and a further 20 per cent selected ‘reduce the frequency of reporting requirements to a minimum’.<sup>37</sup> The results of this survey are instructive and section 6 on digital opportunities outlines further options for reductions in compliance costs via digital submission.

Situations where information is produced solely for the purpose of meeting a remittance requirement of a regulator should be continually assessed. There should always be clear and tangible benefits for regulators when requesting information which bears no direct relation to customers. Regulators should not adopt a default position that requires the remittance of certain information and data without regular assessments – obligations should not exist in perpetuity.

Importantly, any reduction in reporting volume can help foster improved business output and performance by giving SMEs more time to spend on their core business activity. For instance, a reduction in the paper burden on a business can free up staff and resources “that may be reallocated to other, more productive uses”.<sup>38</sup>

### Standard Business Reporting (SBR)

***“[The SBR is] great in concept and we are strong supporters of it being rolled out; however it will only work if it’s a whole of Government approach – at the moment there is not enough interest on all levels of Government, only some departments are interested.”*** CPA

SBR was a welcome development and a step in the right direction in reducing the reporting requirements on small businesses. Operational since July 2010, SBR facilitates the direct reporting of information to Government via financial, accounting and payroll software and its development cost the Federal Government approximately \$170 million.<sup>39</sup>

<sup>34</sup> 2010 OECD Policy Framework for Effective and Efficient Financial Regulation: General Guidance & High-Level Checklist, p11.

<sup>35</sup> Productivity Commission 2013, Regulator Engagement with Small Business, Research Report, Canberra, p12

<sup>36</sup> Institute of Public Accountants, Australian Small Business White Paper Summit, 2014, p9

<sup>37</sup> Ai Group Submission to Regulator Engagement with Small Business p13

<sup>38</sup> Federal Treasury Economic Roundup Issue 2, 2014, ‘Deregulation in Australia’, p65

<sup>39</sup> Productivity Commission 2013, Regulator Engagement with Small Business, Research Report, Canberra, p165

The take up of SBR has been lower than initially expected for a variety of reasons. A key reason has been the fact that not all government agencies have adopted or subscribed to SBR, reducing the value that a standard reporting mechanism offers small businesses.<sup>40</sup> The Productivity Commission noted that “greater commitment from participating government agencies could substantially improve the take up rate of SBR and the realisation of benefits”.<sup>41</sup> NAB believes that SBR should be mandatory amongst federal government agencies to fully maximise the benefits and opportunities for small businesses. Consideration could also be given to offering benefits to accounting software providers in order for these companies to further embrace the concept.

### **Recommendation 5**

Standard Business Reporting (SBR) is made mandatory amongst government agencies to maximise the benefits SBR offers in reducing the reporting requirements of small business. The Government should also use COAG to encourage state and territory government agencies to adopt SBR.

### **1b) Regulatory creep**

Small businesses can also suffer from the burden of regulatory creep, whereby requirements which were not originally intended to apply to small business, or certain types of small businesses, can impact them over time. Former Productivity Commission Chairman Gary Banks in 2006 noted regulatory coverage of small business “had become more extensive over time as the real value of thresholds had been eroded by inflation”.<sup>42</sup> As with bracket creep in taxation whereby inflation pushes taxpayers into higher tax brackets, regulatory creep means inflation pushes businesses above thresholds which trigger a regulatory or reporting requirement.

The 2006 Banks Taskforce on deregulation highlighted GST registration and quarterly PAYG withholding requirements as areas where action was needed to restore or raise thresholds. NAB welcomes the Government’s announcement in June 2014 on administrative changes to PAYG instalment thresholds that will reduce compliance cost for taxpayers by \$56 million per year.<sup>43</sup> The Government said by reviewing and adjusting thresholds set more than a decade ago, 32,500 small businesses will no longer have to lodge a Business Activity Statement (BAS) to report their PAYG instalments and a further 340,000 businesses will no longer have to interact with the PAYG instalment system when lodging their BAS.<sup>44</sup> This is an example of reducing compliance requirements for SMEs by reviewing out-of-date trigger thresholds that could also be applied to other requirements for SMEs.

## **2. DUPLICATIVE REQUIREMENTS**

Duplication is a key source of inefficiency for private enterprise and something which firms seek to minimise or eliminate. Duplication can exist where there are requirements to provide the same or similar information to different parties or, alternatively, information on multiple occasions. According to the Productivity Commission, small businesses have experienced such requirements and complained about their unnecessary burden.<sup>45</sup> Reducing duplication in the reporting of information can occur by limiting the requested information to the minimum possible and “making use of auto-filling and information sharing wherever possible”.<sup>46</sup>

COAG has noted “duplication of regulatory compliance effort is a source of much frustration”.<sup>47</sup> Overlapping regulatory reporting adds to costs and there is an obvious benefit in a more coordinated approach from government agencies in soliciting data from market participants.

<sup>40</sup> *Ibid*

<sup>41</sup> *Ibid*

<sup>42</sup> Gary Banks, *Reducing the regulatory burden: the way forward*, Inaugural Public Lecture. Monash Centre for Regulatory Studies, University Law Chambers, Melbourne, 17 May 2006, p13

<sup>43</sup> Bruce Billson MP, ‘Address to the G20 Agenda for Growth: Opportunities for small and medium enterprises conference, Melbourne, 20 June 2014, available at <http://bfb.ministers.treasury.gov.au/speech/015-2014/>

<sup>44</sup> *Ibid*

<sup>45</sup> Productivity Commission 2013, *Regulator Engagement with Small Business*, Research Report, Canberra, p12

<sup>46</sup> NSW Business Chamber, *Submission to the Productivity Commission on ‘Regulator Engagement with Small Business’*, 20 March 2013, p7

<sup>47</sup> COAG Communique, 2 May 2014, p3

## 2a) Taxation

Taxation is a key consideration and requirement for businesses of all size and a significant source of compliance. Federal Treasury recently estimated that tax-related compliance costs “represented around 40-50 per cent of total economy-wide regulatory compliance costs” meaning they offer a significant source of opportunities for savings.<sup>48</sup> The Australian Tax Office (ATO) is the regulator SMEs most commonly deal with meaning its policies and decisions can have a significant impact on the sector.<sup>49</sup> SMEs can have concerns about everything from the number and rate of taxes to how they are administered or collected to the complexity of tax rules.

A key concern of SMEs is the compliance costs associated with taxation. As discussed earlier, the broader burden of regulatory compliance generally falls proportionally more on SMEs than larger organisations and this applies to taxation. The Henry Tax Review noted “small businesses bear a disproportionately higher share of the tax compliance burden”.<sup>50</sup> It was also demonstrated in an academic study from 2014 which found the tax compliance burden of micro businesses was roughly AUD\$90 per \$1,000 of turnover while the figure fell to \$AUD12 for small businesses and \$2 per \$1,000 of turnover for medium entities.<sup>51</sup> The technical nature of some tax requirements means SMEs – many of whom may have had limited previous business or finance experience – are often required to engage specialist external assistance (e.g. accountants) or invest significant amounts of time understanding their requirements in order to become compliant.

Several recent studies and surveys have indicated that the compliance costs associated with taxation has increased in the past 10-15 years. This increase is over and above the additional compliance requirements that came with the introduction of the Goods and Services Tax (GST) in 2000. The ACCI 2012 National Red Tape Survey found 73 per cent of respondents said the ATO had a high or moderate level of complexity, the highest of any commonwealth regulatory authority.<sup>52</sup> When asked about the time spent on their last tax return, 15.5 per cent said they had spent more than 50 hours, only 24 per cent said they had spent 15 or less hours and 31 per cent said they had outsourced the service.<sup>53</sup>

A 2014 Australian academic study examined in detail the tax compliance costs faced by small business.<sup>54</sup> The study found that both the time spent by SMEs and the total cost of tax compliance had increased significantly in the past two decades. Based on a survey of 682 business taxpayers, the study found SMEs spent an average of 256 hours per year on tax compliance with the most time consuming activity being recording tax information.<sup>55</sup> This was an increase of 63 per cent on a 1995 study where the annualised compliance time was 174 hours, driven by a 94 per cent increase in the time required for recording information.<sup>56</sup>

Likewise, the study found overall gross compliance costs for Australian SMEs “have increased by 118 per cent in constant dollar terms over the period from 1995 to 2012.”<sup>57</sup> It also estimated that overall level of tax compliance costs for SMEs “to be in the region of \$AUD18 billion” and representing 1.2 per cent of GDP and 14 per cent of the tax revenue raised from the SME sector”.<sup>58</sup> Research from the Institute of Chartered Accountants similarly found tax compliance cost SME businesses \$18.4 billion annually, also around 1.2 per cent of GDP.<sup>59</sup> These findings emphasise the impost of tax compliance economy wide and show even small reductions at the individual firm level can have a significant overall impact on SMEs and deliver benefits to the broader economy.

48 Federal Treasury Economic Roundup Issue 2, 2014, ‘Deregulation in Australia’, p72

49 Institute of Public Accountants, Australian Small Business White Paper Summit, 2014, p9

50 Australia’s Future Tax System Review Panel 2009, Australia’s Future Tax System, Report to the Treasurer, December 2009, Part One: Overview, p67

51 Lignier, P, Evans, C and Tran-Nam, B, 2014, ‘Tangled up in tape: The continuing tax compliance plight of the small and medium enterprise sector’, Australian Tax Forum, 1 May, p235. The research defined ‘micro-businesses’ as SMEs with turnover under \$75,000; small businesses with turnover in the \$75,000 to \$1.99 million and medium businesses as those with a turnover between \$2 million and \$100 million

52 Australian Chamber of Commerce and Industry ACCI National Red Tape Survey, October 2012, p17

53 ACCC National Red Tape Survey, October 2012, p7 and 18-19

54 Lignier, P, Evans, C and Tran-Nam, B, 2014, ‘Tangled up in tape: The continuing tax compliance plight of the small and medium enterprise sector’, Australian Tax Forum, 1 May, p235.

55 Ibid, p235

56 Ibid, p236

57 Ibid, p242

58 Ibid, p247

59 Institute of Chartered Accountants, ‘Tax burden hurting small business to the tune of \$18 billion’, 4 June 2014, available at [http://www.charteredaccountants.com.au/News-Media/Media-centre/2014/Tax-burden-hurting-small-business-to-the-tune-of-\\$18-billion](http://www.charteredaccountants.com.au/News-Media/Media-centre/2014/Tax-burden-hurting-small-business-to-the-tune-of-$18-billion)

## Specific tax measures of interest to small business:

### Goods and Services Tax (GST)

NAB notes that GST is likely to be considered broadly in the Federal Government's planned White Paper on Taxation Reform so does not wish to pre-empt this process. The Henry Tax Review did note that GST compliance was costly for business, "particularly small business".<sup>60</sup>

### Payroll Tax

***"Whilst the differences may appear marginal to a bureaucrat, the administrative costs are significant and inefficient."***  
CPA member

Has been a source of debate among businesses of all size for some time. There is a lack of uniformity in the thresholds and rate of tax between Australian jurisdictions and states have used reductions in the rate as a way of attracting business and investment from other parts of Australia. For example, the Victorian Employers' Chamber of Commerce and Industry (VECCI) is calling on the Victorian government to assist SMEs by raising the payroll tax threshold from \$550,000 to \$850,000, noting the threshold was last increased in 2002.<sup>61</sup> According to VECCI, this would help ensure Victoria remains competitive with other states.<sup>62</sup>

As with the GST, payroll tax is likely to be considered in the White Paper on Taxation Reform, so NAB notes the views of others on the tax. The Henry Tax Review said payroll tax was an inefficient form of taxation and recommended it "should eventually be replaced with revenue from more efficient broad based taxes that capture the value-add of labour."<sup>63</sup> Reform to payroll tax could help promote employment with 47 per cent of respondents to 2012 ACCI National Red Tape Survey saying a reduction in the tax rate or thresholds of payroll tax would help create employment opportunities in their business.<sup>64</sup>

#### Recommendation 6

NAB encourages the upcoming White Paper on Taxation to consider the compliance requirements on small business of the GST and state-based taxes, such as payroll tax, in any examination of these taxes.

## 3. IMPROVING THE QUALITY OF CONSULTATION

***"Regulation without consultation is like a shot in the dark".*** Productivity Commissioner Chairman Gary Banks, 17 May 2006.<sup>65</sup>

NAB welcomes the government's approach to improve the consultation process between government and those affected by any new regulation. Consultation is an important part of the regulatory process as even the best intentioned and necessary piece of new regulation can usually be improved through consultation with key stakeholders.

Consultation must occur early enough for the feedback to be considered, along with preparedness for a range of alternative policy options to be assessed. It should also occur at the appropriate time and not continue too proximate to compliance.

A lack of effective consultation can significantly add to the cost of compliance by causing sunk costs. These can occur when revised guidance issued by regulators during the implementation phase renders initial work to achieve compliance as no longer applicable or relevant. Similarly, if regulation is revised after implementation then this will cause "unnecessary compliance and additional adjustment costs".<sup>66</sup>

<sup>60</sup> Australia's Future Tax System Review Panel 2009, *Australia's Future Tax System, Report to the Treasurer, December 2009, Part One: Overview*, p51

<sup>61</sup> VECCI, *Taking care of business campaign launch, The pre-election business agenda for 2014 and beyond*, available at <http://www.vecci.org.au/tcob>

<sup>62</sup> According to VECCI, Tasmania's payroll tax threshold is \$1.25m; South Australia at \$600,000; NSW at \$750,000; WA \$800,000 from 1 July 2014; Queensland \$1.1m; with Victoria's currently the lowest at \$550,000

<sup>63</sup> Australia's Future Tax System Review Panel 2009, *Australia's Future Tax System, Report to the Treasurer, December 2009, Part One: Overview*, p91

<sup>64</sup> ACCI National Red Tape Survey, October 2012, p20

<sup>65</sup> Gary Banks, *Reducing the regulatory burden: the way forward*, Inaugural Public Lecture, Monash Centre for Regulatory Studies, University Law Chambers, Melbourne, 17 May 2006, p12.

<sup>66</sup> Federal Treasury Economic Roundup Issue 2, 2014, 'Deregulation in Australia', p65

The Productivity Commission noted the view amongst small businesses that their concerns “*are neglected when quantifying the costs and benefits of regulations*” and the Commission’s own research found the consideration of regulatory impacts on small business featured in only 35 per cent of 182 Regulatory Impact Statements (RISs) analysed.<sup>67</sup> It was noted though that even the best intentioned regulator can face challenges consulting with a large number of SMEs, with business owners often lacking “the time and resources to participate in consultation processes”.<sup>68</sup> This can be particularly the case when dealing with owner/operator businesses that may be required to close or stop business activities to attend a meeting or consultation with a regulator. Regulators should seek consultations with a variety of small businesses representatives or industry figures if they unable to consult directly with small businesses. The lower rates of industry membership among small businesses than larger ones can prove challenging for regulatory engagement and the Productivity Commission notes that these bodies will more likely complement than substitute the direct engagement of regulators with small business.<sup>69</sup>

Despite these challenges, an inability to consult with SMEs should not be used as a reason to bypass the consultation phase. A cross section of views is important to reduce the risk of regulator being ‘captured’ by certain sectors or industry groups.<sup>70</sup> Additional consultation takes up the time of regulators but they can reduce compliance costs for firms and importantly reduce the time regulators may be required to spend implementing and enforcing compliance on a given regulation if or when it is introduced. The Australian Securities and Investment Commission (ASIC) earlier in the year conducted the regulator’s second small business survey.<sup>71</sup> The ATO has also this year revamped its formal small business consultation process with a group which has a strategic focus on making improvements for small businesses now and into the future.<sup>72</sup> NAB welcomes both of these initiatives which could be models for other regulators to consider.

#### **Recommendation 7**

Regulators should seek to engage directly with small businesses on the impact of proposed regulation or requirements. If unable to consult directly with small business, regulators should instead seek to consult with a cross section of SME industry groups, advisory bodies or relevant state-based Small Business Commissioners to gauge the impact of prospective regulation on SMEs.

## **4. RIGOROUS AND MANDATORY POST IMPLEMENTATION REVIEWS**

***“The quality, implementation, and impact of regulation should be assessed after a sufficient length of time has passed since its adoption. This assessment should evaluate whether the regulation achieved its specific objective(s), whether it did so in a cost-efficient manner, and whether the decision-making process could be improved.” 2010 OECD best-practice framework.***<sup>73</sup>

Regulation must remain relevant and appropriate with the passage of time. It should not be a case of ‘set and forget’ and requirements should be regularly assessed for ongoing relevance. This is particularly important for SMEs where new business, and indeed entire industries, can be created quickly or rapidly forced to adjust operations to meet a changed business environment.

The use of post-implementation reviews (PIRs) or sunset clauses are excellent means to measure the ongoing appropriateness of regulation. If a regulation is no longer meeting its desired objective or indeed the objective itself is no longer relevant then a timely repeal should be considered. Consideration should be given to the timeliness of PIRs or sunset clauses; in some cases the impacts of regulation will be quickly apparent but, in other cases, the unintended consequences of regulation will only be revealed over time. A case-by-case approach to the timeliness of such reviews is encouraged, and could be canvassed as part of the initial consultation.

67 Productivity Commission 2013, *Regulator Engagement with Small Business, Research Report, Canberra, p82-83*

68 *Ibid*, p83

69 Productivity Commission 2013, *Regulator Engagement with Small Business, Research Report, Canberra, p80*

70 Productivity Commission 2013, *Regulator Engagement with Small Business, Research Report, Canberra, p11*

71 ‘ASIC launches small business stakeholder survey’, Media Release, Monday 7 April, available at <http://www.asic.gov.au/asic/asic.nsf/byheadline/14-070MR+ASIC+launches+small+business+stakeholder+survey?openDocument>

72 Commissioner of Taxation Chris Jordan, ‘Deregulation – balancing our service delivery and regulatory roles in a real time environment’, Address to the Council of Small Business of Australia 12th National Small Business Summit 2014, 8 August 2014

73 2010 OECD Policy Framework for Effective and Efficient Financial Regulation: General Guidance & High-Level Checklist, p32.

## 5. ENSURE REGULATORS ARE TRANSPARENT, ACCOUNTABLE AND EFFICIENT

***“We’ve been strong backers of the small business commissioners in the states and strongly back the Federal Ombudsman creation. The Ombudsman/Commissioners primary role is to provide cheap, simple, non-legalistic dispute mediation services. The history of this in Victoria over a decade has been positive. This makes for better business for both small and large businesses, including government.”*** CEO, Independent Contractors of Australia.

The ceding of power and functions to industry regulators which have traditionally been the remit of the executive government has been a problematic trend of recent years. NAB would encourage the government to be alert to the consequences of this trend, including mission creep by regulators and the independent development of new policy, a function which properly sits in the realm of the Executive.

One way this can be prevented is by providing regulators with clear guidance on the aims and intent of legislation at the point of introduction. In 2006, Productivity Commission Chairman Gary Banks said “regulators needed clearer guidance about the policy intent behind regulation, including in enabling regulation”.<sup>74</sup> As previously outlined, the increase in the volume of regulation for SMEs and the time required to comply with it over the past two decades means providing regulators with this guidance is now more important than ever.

It is also important all regulators work collaboratively when administering regulatory regimes as collaboration is likely to deliver better results for SMEs. The Productivity Commission’s publication in March 2014 of a regulator audit framework to assess the performance of regulatory authorities on deregulation measures is welcomed.

The efficiency of regulators can also be improved by considering whether each and every regulator at the state and federal level is required or whether duties and responsibilities could be consolidated or reduced. The Productivity Commission in 2013 estimated that Australia has an estimated 130 national regulators, 350 at the state and territory level and 560 within local government. The sheer number of regulators suggests there is scope for reduction and NAB is encouraged by COAG’s agreement in May “to look closely at improving the performance of regulators and the benefits of consolidating regulatory functions” in order to reduce the number of regulatory bodies SMEs must interact with.<sup>75</sup>

### **Recommendation 8**

For the Federal Government, through the COAG process, to examine the remit and scope of regulators for possible consolidation of functions and responsibilities particularly those at a state and local council level. A body such as the Productivity Commission could be engaged to perform a detailed analysis on the activity of regulators.

Businesses of any size can have disagreements with other businesses. Small businesses can have disagreements with similar sized organizations but when in dispute with a larger organisation (business or government) they are unlikely to have the same resources to engage. Small Businesses Commissioners exist in New South Wales, South Australia, Victoria, Western Australia and federally and while they have a range of roles, a primary one is to assist in resolving disputes “with minimal stress to small business operators”.<sup>76</sup> Based on feedback from customers and industry groups, NAB believes Small Business Commissioners have delivered positive results in assisting with dispute resolution.

NAB notes the Government’s planned establishment of the Small Business and Family Enterprise Ombudsman (SBFEO) as an extension of the existing Australian Small Business Commissioner. The Government says there is demand for the position to be a Commonwealth-wide advocate for small business, a concierge for dispute resolution and contribute to developing policies for SMEs.<sup>77</sup> NAB would encourage the Government to ensure the Ombudsman has clearly defined powers and responsibilities so as to prevent confusion among SMEs and duplication of resources with the various state-based Small Business Commissioners. The Government said it expects the SBFEO to “build good relationships” with the state small business commissioners in order to give SMEs “the best service the Government can provide” and state governments are encouraged to ensure these bodies also work closely and collaboratively with SBFEO.<sup>78</sup>

<sup>74</sup> Gary Banks, *Reducing the regulatory burden: the way forward*, Inaugural Public Lecture, Monash Centre for Regulatory Studies, University Law Chambers, Melbourne, 17 May 2006, p13.

<sup>75</sup> COAG Communique, 2 May 2014, p3

<sup>76</sup> Productivity Commission 2013, *Regulator Engagement with Small Business*, Research Report, Canberra, p182

<sup>77</sup> *Statement on the Small Business and Family Enterprise Ombudsman*, August 2014, p2, available at <http://www.treasury.gov.au/Policy-Topics/Business/Small-Business/Family-Enterprise-Ombudsman/Statement>

<sup>78</sup> *Statement on the Small Business and Family Enterprise Ombudsman*, August 2014, p5, available at <http://www.treasury.gov.au/Policy-Topics/Business/Small-Business/Family-Enterprise-Ombudsman/Statement>

# Additional deregulation themes identified by NAB

## 6. DIGITAL OPPORTUNITIES

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***“(Australia must ensure) its innovation, competition and regulatory settings allow businesses to adopt new technologies and change business models quickly and allow governments to use digitisation to offer better and cheaper services.”*** BCA Action Plan for Enduring Prosperity: Summary Report, July 2013, p16.

The trend towards digital usage is one of the fundamental changes reshaping the economy and consumers are leading this trend with their take up of digital offerings.

It is important that regulatory frameworks keep pace and are updated to reflect this change and how people choose to interact with SMEs. Digital options, such as the submission of information to regulators, are particularly important for SMEs as they offer “an after-hours access point” which enables small businesses to submit the information at the most convenient time for them.<sup>79</sup>

Electronic lodgement of information to regulators is increasingly preferred by SMEs. The Productivity Commission noted several examples of electronic reporting mechanisms offered by the ATO, ASIC and state revenue officers.<sup>80</sup> The demand for services such as these is only likely to expand in the future so regulators should continue making every effort to update and expand their digital reporting options. Regulators who deal most commonly with small businesses, such as the ATO, should aspire to a ‘digital first’ or ‘digital by default’ operating model to reduce both the cost and time in making remittances to regulators.

***“There is really good information for small business available, but it is very much hidden and really hard to find; it’s really important to make it easier to access relevant information easily.”*** Small Business Mentor, Small Business Mentoring Service, September 2014.

Along with providing alternative submission methods, digital options also offer an important source of information for current and prospective small business on everything from meeting their regulatory requirements to researching available government grants. Feedback from small business stakeholders and industry groups suggest while there is significant useful information available for small business people, it is not always easy to find. Improving the ease of accessing this information would be beneficial and enable small business owners to spend more time on the day-to-day operations of their business.

NAB notes the improvements in centralising information and the ease of locating and accessing it through the creation of business.gov.au and various state-based equivalents, such as business.vic.gov.au. Business.gov.au offers information about registration and licencing, advice on starting a business and employment and availability of grants.

Consideration should be given to improving this tool by expanding it to create a national small business portal to offer businesses a more united approach. Such a measure would involve consolidating the information available on state-based government portals and websites and business.gov.au to create a ‘one-stop shop’ for small businesses to access all the information they require to meet regulatory and compliance needs in one location.

An example of a national portal which could be used as a template for such an approach is the Australian Business Licence and Information Service (ABLIS).<sup>81</sup> The service provides information on state and territory, local and federal government requirements relevant to a business, information about fees, where to access relevant forms and can be provided in a personalised report. Small business feedback is they have found the service a very useful tool in finding and prioritising licencing requirements.

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<sup>79</sup> Productivity Commission 2013, *Regulator Engagement with Small Business, Research Report, Canberra, p11*

<sup>80</sup> Productivity Commission 2013, *Regulator Engagement with Small Business, Research Report, Canberra, p164*

<sup>81</sup> Available at <https://ablis.business.gov.au/pages/home.aspx>

### **Recommendation 9**

Federal Government to create a national small business portal, expanding on business.gov.au, to act as a 'one-stop' shop for small business requiring information on meeting their regulatory and compliance needs. ABLIS to be used as a template for the portal.

## **7. LACK OF CLARITY IN EXISTING REGULATION**

Uncertainty in any aspect of business or government is not conducive to a strong and prosperous economy. For SMEs, ambiguity in the application of regulation can add significant cost to compliance and, perhaps more importantly, stifle innovation.

Uncertainty can stem from a lack of consistency in regulators issuing policy guidelines, movements in compliance dates and delays in making decisions on applications to provide temporary relief from certain requirements. It can also be prolonged by small things, such as a delay in a regulator announcing a decision. A lack of timeliness in regulatory decisions can both create and prolong uncertainty.

Steps to reduce uncertainty can include providing clear regulatory guidance as early as possible, responding promptly to requests for relief and announcing decisions quickly.

## **8. LACK OF NATIONAL CONSISTENCY – CONSIDERATION FOR COAG**

**“My sister and family operate an electrical business on the Murray border but also have contracts in WA. They are required to have electrical licences for each state, have policies and procedures related to state regulation e.g. OHS.” nabVillage member, September 2014**

A lack of consistent regulation across jurisdictions can pose significant challenges for business, adding both cost and complexity to a firm's operations. In Australia these differences have largely been between state and territory governments and a lack of nationally consistent laws. A lack of harmonisation can add complexity to the processing of documents and require specific rather than uniform training for all relevant staff.

NAB welcomes the Council of Australian Governments' (COAG) renewed focus on deregulation and particularly the focus on end-to-end regulation of small businesses. The May 2014 COAG Communique said the regulatory burden on small business “in particular must be urgently addressed”.<sup>82</sup> The jurisdictions will present reforms in various SME sectors<sup>83</sup> to COAG in December 2014.<sup>84</sup> NAB would strongly encourage these reforms to be carefully considered.

### **8a) Leasing requirements**

NAB and other companies which operate across different locations are impacted by inconsistencies between States. An example of this for businesses operating in multiple states or territories is the inconsistencies in leasing requirements between jurisdictions. There are differences between states and territories in the retail consumer protection legislation for lessees, which adds cost and complexity to negotiation of leases across Australia. In addition, legislation regulating the registration and renewals of leases varies across state and territories. These inconsistencies add cost and complexity to any business which operates a national leasing portfolio.

### **Recommendation 10**

The Federal Government should direct COAG to pursue greater consistency and uniformity in state-based leasing requirements.

<sup>82</sup> COAG Communique, 2 May 2014, p2

<sup>83</sup> The SME sectors are “Housing and commercial building and construction, road freight, exporters, food and dairy manufacturing, fish processing, agriculture, tourism business licensing, cafes and restaurants, clothing retail, eco-lodge and marine tour operators and native title in mining, gas and exploration”

<sup>84</sup> COAG Communique, 10 October 2014, p3

## 9. REDUCING THE COST OF DOING BUSINESS

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### Industrial Relations

Consultation with industry groups and customers indicates the current industrial relations framework is a source of frustration for some small businesses. Within certain sectors, it has become a persistent pain point. For example, stakeholders suggest that penalty rates can act as a disincentive for small businesses to employ additional staff or for a business to operate at a certain time leading to an obvious friction point in transitioning to a diverse 21st century services based economy. The Business Council of Australia (BCA) highlighted the importance of creating an environment where businesses “can respond effectively to competitive pressures” and regulation which “removes barriers to job creation” and “reduces unnecessary uncertainty and risk” in its 2013 report *Improving Australia's Regulatory System*.<sup>85</sup> Reforms which assist in creating such an environment are worthy of Government attention and consideration.

### Recommendation 11

NAB encourages the Productivity Commission's upcoming review of the *Fair Work Act* and broader workplace relations framework to be extensive and give consideration for addressing the identified concerns of small businesses.

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<sup>85</sup> Business Council of Australia, *Improving Australia's Regulatory System*, November 2013, p79

# Summary of Recommendations

## RECOMMENDATION

1. The Federal Government create a National Small Business day as a nationwide day of action to recognise and celebrate the sector's importance to the economy
2. The Federal Government sponsor a working group with industry to consult and advise on the feasibility of using the existing and future payment system capability to reduce the obligations of small business to lodge taxation information
3. The Government should consider designating a predetermined number of dates each year for the purposes of commencement and compliance with all major regulatory initiatives
4. As part of a whole of government approach, state and federal government departments adopt a greater uniformity in their definitions of small business in order to reduce compliance costs
5. Standard Business Reporting (SBR) is made mandatory amongst government agencies to maximise the benefits SBR offers in reducing the reporting requirements of small business. The Government should also use COAG to encourage state and territory government agencies to adopt SBR
6. NAB encourages the upcoming White Paper on Taxation to consider the compliance requirements on small business of the GST and state-based taxes, such as payroll tax, in any examination of these taxes
7. Regulators should seek to engage directly with small businesses on the impact of proposed regulation or requirements. If unable to consult directly with small business, regulators should instead seek to consult with a cross section of SME groups
8. For the Federal Government, through the COAG process, to examine the remit and scope of regulators for possible consolidation of functions and responsibilities particularly those at a state and local council level
9. Federal Government to create a national small business portal, expanding on business.gov.au, to act as a 'one-stop' shop for small business requiring information on meeting their regulatory and compliance needs
10. The Federal Government should direct COAG to pursue greater consistency and uniformity in state-based leasing requirements
11. NAB encourages the Productivity Commission's upcoming review of the Fair Work Act and broader workplace relations framework to be extensive and give consideration for addressing the identified concerns of small businesses

