Friday, 3 July 2026

Reducing barriers to business dynamism inquiry
Productivity Commission
LB2 Collins Street East
Melbourne Vic 8003

Submitted online at https://www.pc.gov.au/inquiries-and-research/business-dynamism/make-submission/

Dear Commissioners

Reducing barriers to business dynamism inquiry

Chartered Accountants Australia and New Zealand (CA ANZ) welcomes the opportunity to share our members' experiences in operating, and supporting their clients to operate, dynamic businesses. More about CA ANZ is provided at Appendix B.

Of the many factors impacting business dynamism, we consider the most important pathway to address the regulatory and administrative barriers is initial and ongoing education of business owners and directors.

Currently, the disconnect between agencies that impact operating a business means business owners and directors need to focus their attention on compliance rather than business dynamism. There are disconnects between the commonwealth, state and territory regulators and differences between how each state and territory regulate the same business activity. The level of understanding needed to interpret a myriad of regulation and comply efficiently and accurately is likely to be beyond the financial literacy of many business owners and directors. Certainly, when starting a business, most owners and directors simply do not know what they do not know.

Sometimes when a business is facing financial stress, even to the point of trading insolvent, owners and directors keep operating with the hope that something will improve. When they realise they need to appoint a regulated professional to assist, there is very little left of their capital to distribute back to their creditors. The current insolvency framework wastes capital resources through inefficient and unnecessary processes which are no longer fit for today's dynamic economy.

While significant legislative change is required for establishing a robust framework, there are changes that can harness the new interconnected digital economy to support efficient businesses to expand and unsuccessful businesses to exit the economy quickly.

Primary among those changes is the education of business owners and directors. While there are excellent resources on how to start, run and exit a business across government and industry, use of these resources still requires someone to know they need more information and allocate time to look for and find the relevant material.

A key change would be for commonwealth, state and territory bodies to push out education though their natural touch points with businesses, business owners and directors. Knowing what you need to do, knowing there is a meaningful penalty that will be enforced if you do not comply, will better equip owners and directors to make honest, well informed and rational decisions about their business.

We provide detailed feedback and recommendations in Appendix A. To discuss our submission further, in the first instance, please contact Jill Muir through
[redacted]

Sincerely,

Geraldine Magarey
Group Executive, Policy and International

Appendix A

Entry

From a regulatory lens there are few barriers to starting up a business. The ease can be demonstrated by a search on Google which returns providers ‘who can set up an Australian business in 5 minutes’.

As a business expands and/or chooses to incorporate, there are a few regulatory requirements to meet. To incorporate requires at least one director and for at least one director to be an Australian citizen or permanent resident, reside in Australia and be over 18 years of age.

Similarly, the regulatory costs to enter or expand a business are low. To obtain an Australian Business Number (ABN) – free; to register a business name - $45; to register a proprietary company and obtain an Australian Company Number (ACN) - $611; to obtain a director identification number (DIN) – free.

Overall, there are very few regulatory barriers or costs to enter a business or expand an existing business. This reflects the view that productivity growth occurs when there are minimal barriers to enter a business supporting innovative business to enter the economy.

Barriers that may hinder a business being productive build as the owners begin to operate a business and necessary expenses mount e.g. insurances, licences, subscriptions and statutory obligations such as tax and personal liability. To meet these expenses, many businesses seek funding from traditional lenders who require security such as a person’s family home. While there are alternatives, often the interest rate, terms and conditions are more restrictive than traditional lending arrangements.

The requirement to provide an asset to secure funding means personal and business finances are inextricably linked. Though mixing personal and business finances is highly discouraged by government agencies and professional advisers, entrepreneurs have few alternatives. With a family home on the line, it is understandable that owners and directors will try and keep a business alive even when there are signs of failure.

While there are a few, reasonable alternatives for funding, entrepreneurs with an innovative idea are willing to take risks to get their idea to market. A key gap being that an entrepreneur with an innovative idea does not translate into financial literacy. While there are many resources available across government and industry to improve financial literacy, how to set up and run a sustainable business, new entrants do not know what they do not know.

Recent research by the Commonwealth Bank shows that millennials (age 30-45) alone made up 49 per cent of new businesses in the year to 31 March 2025, while Gen Z (age 29 or younger) accounted for 13 per cent, Gen X (age 46-61) for 27 per cent and Baby Boomers (over 62) made up 10 per cent of new businesses.[1]

Matching new business statistics with the University of Western Australia paper of Financial Literacy in Australia – 2024 indicates that the groups that make up the majority of new businesses have the lowest financial literacy. The UWA paper analysed data from testing against three fundamental concepts of financial literacy: numeracy, inflation and risk diversification. Their analysis found that millennials' financial literacy was sitting at 52 per cent for women and 65 per cent for men and Gen Z financial literacy at 36 per cent for women and 58 per cent for males.[2]

We believe it is imperative that government bodies push education out to business entrants and continue to push education during the life cycle of a business. We refer the Committee to the Australian Taxation Office (ATO) initiative that follows up applicants for an Australian Business Number (ABN) with three emails over 18 months highlighting information critical to running a sustainable business. This model can be broadened to capture other Commonwealth agencies that have interactions with businesses as part of their natural activities.

We recommend that on application for a(n):

- ***ACN, the Australian Securities and Investments Commission (ASIC) provide the nominated director(s) with a one-page summary of the financial obligations for which each company director is personally liable***
- ***Director identification number, the Australian Business Registry Services provides a one-page summary on the key obligations (and the relevant agency) of directors***

Expansion

Expansion can occur naturally, with an increase in demand, or be driven by owners and directors seeking to enter new markets or acquiring another business. Owners and directors need the knowledge to scale operations at a pace that does not outrun the financial or operational capability of the people and resources behind the business

A key barrier to operating a business is the range of statutory obligations businesses owners and directors must be across as they grow. To know which obligation sits with a commonwealth body and which sits with a state or territory body. The complexity increases if the owner is seeking to scale their business across state lines with the variances between state and territory regulations for a similar obligation, such as thresholds for payroll tax and long service leave.

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[1] CommBank, (14 May 2005), Brat to business, *https://www.commbank.com.au/articles/newsroom*
[2] Prof Alison Preston, (February 2026), Financial Literacy in Australia – 2024, *https://api.research-repository.uwa.edu.au/*

The breadth of statutory obligations requires business owners and directors to focus a significant portion of their time on compliance rather than innovation and growth. To support innovation government should become proactive educators and proactive in their enforcement. A time lag to enforce statutory obligations stagnates and eventually decreases the capital available across the economy.

Regulators could be proactive and remind business owners of their obligations, particularly as new financial obligations arise. For example, payroll tax. This is collected by each state and territory revenue office and relies on the business owner knowing when their total Australian wages exceed the relevant tax-fee threshold – different in each state and territory.

Sharing and data matching with state and territory workers compensation insurance cover, or wages data reported to the ATO through single touch payroll, could highlight when a business triggers a threshold. On notice that a threshold has been triggered, the relevant state or territory revenue office could send a reminder to the business that they are now liable for payroll tax.

Without such reminders and timely enforcement, a business may unknowingly push the edges of solvency to expand. They may knowingly delay statutory payments being unaware of the penalties accruing and how government regulators can seek to recover monies due. For example, the ATO can claw back money due through the application of garnishee orders and issuing of director penalty notices (DPNs) with little notice to the business owner.

The lack of education on statutory obligations, and that some statutory obligations are a personal liability, can lead to business owners being unable to make informed decisions.

Consideration should be given to sharing data, or the financial status of a business between federal, state and territory government bodies. For the relevant federal, state and territory government bodies to be proactive in informing a business when a new financial obligation may be applicable.

We recommend that on issuing a renewal notice for a business name not associated to a registered company and on the issue of an annual statement for a company, ASIC provides education on statutory obligations of directors and early signs of financial stress and what to do about it.

Exit

In theory, directors should finalise tax obligations by lodging a final tax return, cancel PAYG, FBT and superannuation; cancel ABN, business name and insurances, close bank accounts then deregister the company.

To deregister is as simple as submitting an 'Application for voluntary deregistration of a company' with ASIC. This is a statutory declaration that declares the company has no debts and minimal assets. It costs $50 and, once paid to ASIC, the company is struck off the ASIC register after two months. A simple process with no checks or balances.

ASIC may also deregister a company. ASIC can start its strike-off process when a company has not paid its annual renewal fee after 12 months or there has been a lack of activity for 18 months. A simple process with no checks or balances.

ASIC is not required to carry out investigations about a company before publishing a notice of proposed deregistration which, if there are no objections, the company is automatically deregistered after 2 months. Unfortunately, most creditors to small businesses would be unaware of this process or know where to check notices so they could raise an objection.

As ASIC does not publish deregistration numbers, we refer to the information ASIC provided during the Parliamentary Joint Committee' inquiry into corporate insolvency in 2022 and copied below:

Table 7.1 Company deregistrations

Financial Year	Voluntary Deregistration	ASIC/ABRS Initiated (Unpaid review fees)	ASIC/ABRS Initiated (Form 578)	Other	Total
2016-17	71,020	40,127	5,584	4,825	121,556
2017-18	74,848	44,701	5,252	4,493	129,294
2018-19	80,446	47,916	3,485	5,729	137,576
2019-20	84,929	49,605	2,463	6,370	143,367
2020-21	80,420	47,824	2,319	7,196	137,759
2021-22	82,431	47,767	1,225	6,257	137,680
Total	**474,094**	**277,940**	**20,328**	**34,870**	**807,232**

This indicates that there are more than 80,000 applications to deregister and nearly 50,000 strike-off actions by ASIC each year. It is unknown how much capital is lost to the economy as a result of deregistration. The books and records of these companies are not subjected to a review by someone other than the company officers. the absence of checks on companies pending deregistration means there is little in the way of deterrence for illegal conduct and entering voidable transactions—rather it could be seen to encourage abuse.

Considering the large number of companies deregistered each year, it is not viable to each company to be fully investigated by a registered liquidator. Yet unscrupulous directors could improperly move assets out of companies into related companies or appropriate the corporate property themselves. Unscrupulous directors could simply choose not to pay ASIC fees on their company and phoenix assets to a new company and continue operating.

An alternative may be an automated check against the tax status of each company. We understand from the Parliamentary Joint Committee' inquiry into corporate insolvency in 2022 that ASIC sends a daily list of companies pending strike-off to the Australian Taxation Office. This could trigger an automated check to see if there is a tax debt and return a Y or N for each company to ASIC.

Such a check would identify false statutory declarations in applications to deregister and reveal that a debt to at least one other regulatory body exists for those ASIC are seeking to strike-off. Until these numbers are known it is difficult to assess what action should follow. If the number of companies to be deregistered is high, it remains unlikely that a cost: benefit analysis would support investigating those companies.

With the view that such a check will identify directors that have breached their director duties, an alternative to opening a full investigation could be to expand ASIC's power to disqualify a director from managing a company for up to 5 years.

Currently, ASIC may disqualify directors that have been involved with two or more companies that have gone into liquidation within the last seven years and paid their creditors less than 50 cents. This could be expanded with the addition of submitting a false statutory declaration when seeking deregistration or not paying ASIC fees when due.

We recommend that ASIC seek notice from the ATO if the companies listed in the strike-off list have a tax debt.

We recommend that on becoming aware that a person has made a false statutory declaration when seeking deregistration and when a company fails to pay ASIC fees when due, be additional matters ASIC may consider in monitoring director's actions that allow ASIC to disqualify directors from managing companies.

Insolvency regime

We support the calls to harmonise the corporate and personal insolvency regimes. Change is urgently needed to reduce the gap between individuals, business owners and directors that do everything right, including dealing with insolvency, and those that abuse gaps in the system and appear to run dynamic businesses while leaving creditors with unrecoverable debts from their failed businesses.

In our submission to the Inquiry into the Effectiveness of Australia's Corporate Insolvency Laws, provided as an attachment, we made recommendations that we considered would have immediate benefit for the parties in an insolvency situation pending a holistic review. We take this opportunity to outline changes we consider will streamline corporate insolvency, detect and disrupt phoenix activity and lead to better outcomes for creditors.

Access to data

Australia's insolvency regime prescribes the investigations registered liquidators (liquidators) and trustees in bankruptcy (trustees) must undertake. Yet access to data to complete those investigations often attracts a cost. These include checks such as the history of the company structure, land title registers, and National Personal Insolvency Index. These costs, while individually of low value, throughout an investigation, mount up. The total cost reduces the capital available to redistribute across the economy.

Commonly, the amount of fee charged and who pays the fee is set by the government body holding the data rather than prescribed in legislation. We recommend government bodies allow access by liquidators and trustees to the data they hold to be free of charge to reduce the costs of statutory investigations.

Broaden investigation powers

To detect, and deter, phoenix activity will require broadening the parties that can be investigated by a liquidator appointment to a company to include associated entities of that company. Further, when liquidators apply to ASIC to request on their behalf the books and records of a company, ASIC should be able to include the books and records of associated entities.

This seeks to harmonise the corporate and personal insolvency regimes as trustees can request, and request the Official Receiver to request, access to the books of a bankrupt, an individual, and their associated entities under the *Bankruptcy Act 1966* (Cth).

Treatment of trusts associated with insolvent company

Companies often create trusts to hold assets separate from the day-to-day operations of the company. Where an insolvent company stands as a corporate trustee, a liquidator must go through the law courts to be appointed as a receiver of the trust to access the assets held by the trust.

Consideration could be given to broadening investigation powers, as raised previously, which may facilitate a more streamlined approach to investigating and accessing assets held by the company as trustee of a trust.

Record of property holder

Consistency and accuracy across registers of real property which are held at the state and territory level should be established. In NSW, for example, the title is held in the name of the individual or corporation. The register does not indicate if it is held by that individual or a corporation as trustee for a trust.

Noting the barriers to access assets held in a trust, knowing the real ownership of assets from the outset informs the best process to expediate the identification of assets available to creditors.

Operating a business

On being appointed, a liquidator becomes personally liable for their decisions and actions during their period of administration of a company. Yet Section 477(2B) of the *Corporations Act 2001 (Cth*) requires a registered liquidator to either obtain creditor approval, by way of a meeting of creditors, or Court approval to enter into an agreement on the company's behalf if it is expected to last more than 3 months. For example, renewing a lease or entering an agreement for legal services.

This imposes an unnecessary burden on the registered liquidator, a regulated party with significant experience in running a business, both in time and expense. It uses the court's time for a minor, unnecessary case and decreases the pool of funds available to distribute to creditors.

To recognise that liquidators are regulated and monitored by creditors, we seek consideration of rescinding section 477(2B) of the *Corporations Act 2001 (Cth).*

Australian Taxation Office (ATO)

In corporate insolvency, the ATO stands as both a creditor and a regulator. Liquidators must seek various approvals from the ATO during an external administration, the processes themselves, and the timelines to complete a process can be a significant barrier to timely redistribution of capital.

The following timelines for liquidators to progress a statutory requirement after making a request, following up after 28 days, then making a request to escalate, then lodging a complaint in another 14 days when still not complete:

- Liquidators must complete the ATO's own spreadsheet of known employee wages and salaries to obtain the ATO's Superannuation Guarantee calculation to be able to pay employees, a priority creditor, what they are due: taking 3 to 6 months.
- The ATO must provide tax clearance at the end of an external administration before a dividend can be paid to unsecured creditors: taking 3 – 6 months.
- A Freedom of Information Request for documents necessary for the registered liquidator to undertake their investigations: taking 6 – 9 months.
- To receive a response from the ATO to a demand to repay a preference payment, noting a statutory limit of 3 years to complete these demands: taking 6 – 9 months.

Redistributing capital is delayed due to the time the ATO takes to respond to a liquidator's statutory requests. Further, if the delay means the file is open at the close of 30 June, it increases the levy the liquidator will need to pay to ASIC.

We suggest that the mandatory ATO interactions during an external administration could be streamlined if the ATO formed a team focused solely on managing insolvency matters.

Equitable distribution of insolvency engagements

The ATO is the largest creditor, by number and value, of corporate insolvencies. Where the ATO initiates action, it generally involves their panel of lawyers who, in turn, issue consents to registered liquidators.

The experience of our members, that are also liquidators, has been that the panel of lawyers sometimes issue consents to a small, preferred group of registered liquidators. Widening the group of liquidators to do this work would improve dynamism.

Australian Securities and Investments Commission (ASIC)

While ASIC are working to streamline the forms they seek from liquidators, the number of forms to report to ASIC remains disproportionally high, accepting that corporate structures are more complex than unincorporated businesses, when compared to the number required to report on personal insolvency matters. We continue to support the efforts of ASIC and seek a review of the value of each report and if that process is necessary.

ASIC process timeframes can also create a barrier to the work of a liquidator. A key issue being the time taken by ASIC to enforce a director's duty to provide the liquidator with a report on the company's activities and property (RoCAP). It is a director's duty to provide a RoCAP to the liquidator within 14 days of appointment. If a director fails to do so, the liquidator can apply to ASIC to request a RoCAP. ASIC's processes take significant time during which the liquidator must proceed with their investigations and, in the absence of a RoCAP, expand those to determine recent activities and property of the company.. The timeframe is further exacerbated, if it is still not supplied by directors, as ASIC needs to go to court to prosecute the matter which often ends with a minor fine to the director.

In line with our earlier recommendation, failing to provide a RoCAP could be included in the matters ASIC can consider to ban a director from managing companies.

Australian Financial Securities Authority (AFSA)

To commence their work, trustees require a 'Certificate of Appointment' (Certificate) issued by AFSA to request information from parties to a personal insolvency and to access the debtors bank accounts, books and records. The date on this Certificate starts the timeline for the trustee to complete their activities.

Where an individual themselves applies for bankruptcy, a debtor's petition, a Certificate is issued within 3 – 5 days though back dated to the day the individual lodged their debtor's petition. This process reduces the time available to a trustee. To maximise the time frame for a trustee to undertake their statutory obligations, AFSA should date the Certificate on the day of issue.

Even more time can lapse where a creditor raises a petition, often nominating a trustee, which must be through the courts. After due consideration, the court issues a sequestration order appointing the nominated trustee. Yet, parties to the bankrupt can still demand the trustee provide a Certificate from AFSA, a process subsequent to court orders being issued.

The additional time in this process can result in the bankrupt moving funds out of their name and hindering the work of the trustee. We recommend considering alternatives to this process that ensure all parties accept the authority of the trustee on the courts' sequestration order.

Moving forward, and harnessing technology available today, an alternative may be for the issuing of a sequestration order to be linked to AFSA's system and automatically generate a Certificate of Appointment.

Appendix B

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 140,000 financial professionals, supporting them to build value and make a difference to the businesses, organisations and communities in which they work and live.

Around the world, Chartered Accountants are known for their integrity, financial skills, adaptability and the rigour of their professional education and training.

CA ANZ promotes the Chartered Accountant (CA) designation and high ethical standards, delivers world-class services and life-long education to members and advocates for the public good. We protect the reputation of the designation by ensuring members continue to comply with a code of ethics, backed by a robust discipline process. We also monitor Chartered Accountants who offer services directly to the public.

Our flagship CA Program, the pathway to becoming a Chartered Accountant, combines rigorous education with practical experience. Ongoing professional development helps members shape business decisions and remain relevant in a changing world.

We actively engage with governments, regulators and standard-setters on behalf of members and the profession to advocate in the public interest. Our thought leadership promotes prosperity in Australia and New Zealand.

Our support of the profession extends to affiliations with international accounting organisations.

We are a member of the International Federation of Accountants and are connected globally through Chartered Accountants Worldwide and the Global Accounting Alliance. Chartered Accountants Worldwide brings together members of 16 chartered accounting institutes to create a community of more than 1.8 million Chartered Accountants and students in more than 190 countries. CA ANZ is a founding member of the Global Accounting Alliance which is made up of 10 leading accounting bodies that together promote quality services, share information and collaborate on important international issues.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents more than 870,000 current and next generation accounting professionals across 179 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications.