Productivity Commission
Level 8, Two Melbourne Quarter
697 Collins Street
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Dear Commissioners,

Business-related financial abuse: an unaddressed barrier to business dynamism

Each operates Australia's only specialist Business-Related Financial Abuse (BRFA) program. This submission draws on our frontline practice and systemic casework involving victim-survivors whose financial abuse is perpetrated through business structures, government business and tax systems.

This submission highlights BRFA as a barrier to business dynamism that may fall outside the inquiry's conventional terms of reference yet is directly relevant to several Commission priority areas: access to capital markets, insolvency frameworks, and the integrity of business registration and corporate structures. When a business is used coercively, standard assumptions about control, benefit, and clean exit no longer apply, and current regulatory settings do not address this reality.

BRFA occurs where one party uses coercion, control, deception or violence to create, manipulate or entrench business liabilities and obligations in another person's name, typically without their knowledge or free and informed consent. These impacts are currently invisible in national data.

We highlight seven specific mechanisms below, based on casework in resolving over $40 million of financial abuse, and encourage the Commission to view BRFA as a distinct perspective for examining capital access, insolvency integrity, and business exit. BRFA should be recognised as a productivity issue with measurable economic consequences, not merely a peripheral welfare concern.

1. Access to capital

Perpetrators often structure business ownership so that a partner has personal liability, such as guarantees, joint loans, or credit card debt, while being excluded from real control, equity, or decision-making. Victim-survivors are often forced into bankruptcy, are unable to access finance independently due to damaged credit histories they did not cause, and cannot disentangle themselves from obligations they did not consent to. This creates a group of Australians effectively locked out of capital markets, not due to their own risk, but because of debt imposed by others. This is a direct, though often invisible, barrier to future business formation for victim-survivors.

Another deliberate pattern involves stripping assets from the business, such as cash, equipment, contracts, CRM systems, or the entire trading and IT operation, while leaving liabilities with the entity, often with the victim-survivor as the named director or guarantor. Creditors and suppliers remain unpaid, the entity becomes worthless, and the victim-survivor is left responsible for debts tied to a business already taken from them. This is not only harm at the personal level; it results in direct economic losses through unrecovered trade credit, supplier losses, and capital misallocated rather than productively redeployed. This undermines the orderly, efficient business exits the inquiry aims to support.

2. Business entities used to manipulate child support obligations

We regularly see business structures, including companies, trusts, and shell entities, used deliberately to suppress reportable income for child support assessments. This is a sophisticated misuse of otherwise legitimate business and tax structures. Current frameworks across the ATO, Services Australia, and the child support scheme have limited ability to see through these arrangements, making the abuse effective and largely undetected. Beyond family law implications, this conceals genuine economic activity that should be considered in any inquiry into business dynamism and business registration integrity.

Even where these structures are identified, visibility rarely translates into consequences for the perpetrator or resolution for victim survivors. In our casework, the ATO and Services Australia can often see that a business structure has been used to suppress income or fraudulently manipulate reportable earnings, but this recognition rarely leads to enforcement action or accountability as the ATO will not investigate fraud by related parties. Improving detection alone will not fix this.

3. Coerced and non-consenting directorships

A recurring pattern involves formally appointing a non-consenting or coerced partner as company director or shareholder, often without their knowledge, while deliberately denying them access to financial records, banking, or reporting. This leaves individuals legally responsible for a business, and potentially personally liable, unable to fulfil their legal duties or make informed decisions about continuing, restructuring, or exiting. Standard corporate law assumes directors have access to necessary information. BRFA undermines this assumption in ways the current framework does not anticipate.

In effect, these are straw directorships: people listed to satisfy a legal requirement, with no real control over the business. This is a business dynamism and productivity issue and it distorts the core assumption that a registered director is a meaningful decision-maker whose skills and management shape the business. When directorship is nominal, the person running the business sits outside the framework altogether, while legal responsibility falls on someone who could never exercise it. Addressing coerced and non-consenting directorships, already a government reform priority, is essential to the integrity of business registration and to ensuring regulatory settings reflect who is actually making the decisions.

4. Insolvency outcomes shaped by coercive control

BRFA significantly influences insolvency outcomes in two ways. First, perpetrators may drive a business into insolvency or engage in illegal phoenixing to eliminate a victim-survivor's entitlements, such as unpaid wages, superannuation, or property settlements, or to obstruct child support debt recovery. Second, coerced and non-consenting directors are often left exposed to insolvent trading liability when a business fails, despite lacking real control. Insolvency practitioners, ASIC and the courts currently have no consistent framework for identifying or responding to BRFA indicators when administering these matters, which affects both the integrity and the fairness of insolvency outcomes.

This is compounded by the fact that insolvency practitioners' statutory duties run to creditors, not to victim-survivors. Even where indicators of coercive control are apparent, practitioners have no legislative mandate, protection, or referral pathway that allows them to respond to a victim-survivor's position , only to the interests of creditors. Developing indicators to help practitioners identify coercive control is therefore only useful if the law also gives them a basis to act on what they find.

5. Unpaid wages of family members

Family members, most often victim-survivors, are frequently required to work unpaid or significantly underpaid in a family business, with wages and superannuation withheld as a form of control rather than genuine and willing informal arrangements. Upon separation, these entitlements are often unrecoverable, as these debts are rarely included in property settlements. This results in a real, though largely invisible, form of underemployment and reduced workforce participation. Unpaid superannuation also places a greater future burden on the public system, when victim-survivors have not accumulated super in retirement.

6. No data on the economic and productivity impacts of BRFA

Currently, there is no national data collection capturing the scale of BRFA or its economic and productivity impacts, such as the number of businesses affected, capital destroyed or misallocated, workforce participation lost as victim-survivors leave business ownership or are deterred from entrepreneurship and the cost to the economy. Without systemic data collection, the Commission and government cannot assess the scale of this barrier or measure the benefits of addressing it.

7. Inclusion in a business dynamism inquiry

BRFA impacts every stage under the Commission's review. It deters entry, as victim-survivors who have experienced BRFA are often reluctant to re-enter business ownership or capital markets. It distorts expansion by concealing genuine economic activity within structures that obscure control and income. It undermines exit by turning insolvency and phoenixing meant to enable orderly recovery, into tools of further harm.

A regulatory environment that assumes all parties act at arm's length, with equal access to information and consent, will fail to detect or prevent this. Addressing BRFA would improve lenders' risk assessments, enhance insolvency outcomes, and help restore workforce participation and entrepreneurial capacity.

Issues for consideration

We encourage the Commission:

- Build BRFA-specific guidance directly into the frameworks already under examination rather than treating it as a separate issue for a future inquiry.
- Consider what legislative basis would allow insolvency practitioners to act on BRFA indicators alongside their existing creditor-focused obligations.
- Reform business registration and directorship frameworks to distinguish between genuine control and coerced or nominal appointment, including a clear pathway to remove liability where directorship was never genuinely consented to.
- Extend insolvency and illegal phoenixing safeguards to explicitly cover cases where the mechanism itself is used as a tool of abuse against a co-director, shareholder or family member, not only against arm's-length creditors.
- Consider what would drive follow-through of correction and accountability at the ATO and Services Australia once misuse of business structures and fraud by related parties is identified.
- Establish data collection mechanisms to capture the scale and economic impact of business-related financial abuse. Without this, the compliance burden, distorted business activity, and lost economic participation this creates will remain invisible to policymakers and unmeasured in productivity terms.

Case study: business-related financial abuse in practice

Tina* sought assistance after discovering she had been listed as a director of several of her former partner's business without her knowledge or consent.

During the relationship, her ex-partner took out multiple business loans, some secured by director guarantees and others by personal guarantees in her name. He used a home Tina had owned before the relationship as security, without her informed consent. As acting director, he directed all loan correspondence to himself, leaving Tina unaware of both the scale of the borrowing and her own exposure. He obtained her guarantee on the loans by forging a lawyer's and Tina's signatures or tricking her into signing.

Tina never saw any of this correspondence: her ex-partner had set up a fake email account, including one registered with ASIC, to intercept documents addressed to her. He also opened business and personal bank accounts in her name without her knowledge and used them to funnel fraudulent tax refunds and redirect reported earnings back to himself.

After separation, he transferred the business's assets and stopped servicing its loans. Creditors then pursued Tina directly as guarantor, director, and co-borrower, even though she had received no benefit from the loans and had no control over the business at any point.

Tina was ultimately annulled as director, removing her ongoing director liabilities, and Each and pro bono lawyers secured her release from $9.8 million in loan liabilities connected to her ex-partner's business. Her ex-partner was subsequently prosecuted for providing false information to a government authority. Liquidators found the business's accounts had been inflated to secure finance, and funds could not be recovered for distribution to creditors.

*Tina is a pseudonym

Further engagement

Each welcomes the opportunity to provide further evidence, casework examples, or data to support the Commission's interim report. We are engaged with ASIC's Registry Business Advisory Group, the National Economic Abuse Reference Group (EARG) the EARG Business and Tax Working Group, and current Treasury consultations on coerced directorships, and can provide relevant sector expertise.

For further information or to discuss this submission, please contact:

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