NATIONAL AUSTRALIA BANK SUBMISSION

Reducing Barriers to Business Dynamism in Australia

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Introduction

National Australia Bank (NAB) welcomes the opportunity to provide feedback to the Productivity Commission's (PC) *Reducing Barriers to Business Dynamism in Australia* Inquiry. NAB's submission reflects its role as Australia's largest business bank and draws on the experiences and insights of its customers.

NAB strongly supports efforts to improve Australia's productivity, competitiveness and economic resilience through regulatory reform. NAB welcomes initiatives that streamline business establishment and administrative processes, reduce unnecessary compliance burdens and minimise regulatory duplication. A more efficient and predictable operating environment is critical to encouraging business formation, supporting growth and enabling firms to invest, innovate and adapt.

Australia's insolvency framework plays a key role in this context. While the existing regime is broadly effective, NAB considers there is scope for targeted refinements to improve clarity, coordination and administrative efficiency. Such reforms would help deliver better outcomes for businesses, creditors and the broader economy, while maintaining confidence in the integrity of the insolvency system.

This submission also draws on findings from NAB's October 2024 report, *Unlocking growth for small and medium enterprises: Backing our businesses,* which examined the challenges facing Small and Medium Enterprises (SMEs) and identified practical opportunities to support business growth. The report was informed by insights from NAB customers, stakeholders and frontline business bankers. Many of its recommendations remain highly relevant to the PC's consideration of the factors influencing business entry, expansion, investment and capability development. A copy of the report accompanies this submission.

Barriers to Business Entry, Expansion and Exit

Administrative and regulatory costs of starting a business

NAB customers consistently report that regulatory complexity remains a significant barrier to business entry. New businesses are required to navigate a wide range of administrative and compliance obligations including registration, taxation, licensing and employment requirements. The Australian Chamber of Commerce and Industry's *2025 Small Business Conditions Report*[1] found that 39% of small businesses are spending more than six hours each week managing regulatory requirements, while 61% incur annual compliance costs exceeding $20,000. Additionally, among businesses with 20–24 employees, more than half face compliance costs of more than $50,000 a year.

The time and cost associated with meeting these obligations can create a significant burden for new and growing businesses, particularly those with limited financial and administrative resources. This can discourage business formation, divert resources away from productive activities and reduce the capacity of firms to invest, innovate and expand.

The regulatory requirements associated with employing staff add a further layer of complexity for start-ups and small businesses. Employers must navigate obligations relating to wages, awards, entitlements, employment contracts and workplace relations laws, with many SMEs identifying employment-related compliance as one of the most challenging aspects of operating a business.[2] These requirements can

[1] Australian Chamber of Commerce & Industry, 2025 Small Business Conditions Report, November 2025.
[2] NAB, *Backing our businesses: Unlocking growth for small and medium enterprises,* October 2024.

act as a barrier to hiring a first employee, limiting the capacity of businesses to scale beyond being a sole trader.

These challenges can be exacerbated by overlapping Commonwealth and state regulatory frameworks, particularly for businesses operating across multiple jurisdictions. NAB customers frequently identify inconsistencies in regulatory environments, reporting and licensing arrangements as a significant source of friction, increasing administrative effort, compliance costs and uncertainty.[3]

NAB considers there is scope for governments to reduce these barriers through greater harmonisation of regulatory requirements across jurisdictions, streamlined reporting obligations and a stronger focus on compliance frameworks that are proportionate to business size and risk.

Australia's innovation ecosystem

Based on feedback from NAB customers, innovation is not being constrained by a lack of entrepreneurial ambition, but by more challenging operating conditions. The June 2026 quarter NAB SME Survey[4] found business confidence among SMEs had fallen 15 points to -24, levels comparable to those seen during the Global Financial Crisis. Persistently weak confidence, combined with ongoing pressure from labour, input and financing costs, is constraining investment and reducing businesses' willingness and capacity to pursue growth opportunities.[5]

In this environment, many SMEs are focused on managing costs and maintaining cash flow rather than investing in innovation, capability-building or expansion.[6] While conditions have stabilised, they have yet to translate into a broad-based recovery in business confidence or investment, reinforcing concerns about weakening business dynamism and reduced rates of business growth.

For many small businesses, innovation is incremental rather than transformational. Innovation is often focused on improving productivity, streamlining operations, enhancing customer service or adopting new technologies, rather than developing entirely new products or business models. Government support should therefore be designed to align with the practical needs of businesses seeking to adopt new technology, improve processes or test moderate-risk initiatives.

The strong uptake of Artificial Intelligence (AI) among SMEs demonstrates that businesses are willing to embrace innovation where solutions are practical, accessible and low risk. NAB research from April 2026 found that 42% of SMEs are already using AI, with a further 14% planning to adopt the technology in the near term.[7] This suggests that policy settings which reduce complexity, improve access to digital capabilities and support the adoption of proven technologies are likely to deliver the greatest gains in innovation and productivity across the SME sector.

NAB considers that policies aimed at reducing barriers to technology adoption, improving access to skills and capability development, and creating a more predictable operating environment will be more effective in lifting innovation than measures focused solely on increasing business formation or risk-taking.

[3] Ibid.
[4] NAB Economics & Market Research, *Quarterly Business Survey*, June 2026.
[5] NAB, *Backing our businesses: Unlocking growth for small and medium enterprises*, October 2024.
[6] NAB Economics & Market Research, *Quarterly Business Survey*, June 2026.
[7] NAB SME Business Insights, *Embracing AI: Adoption & key opportunities identified by SMEs*, April 2026.

Human capital and management capability

SMEs play a critical role in Australia's labour market and economic performance. Australia's ten largest employing industries account for more than 80% of the national workforce, with SMEs providing more than half of all jobs across each of these sectors.[8] Their contribution is particularly significant in industries such as professional, scientific and technical services, construction, and accommodation and food services, where SMEs account for more than 70% of employment.[9]

NAB customers consistently report that attracting and retaining suitably skilled employees remains a significant challenge. Many SMEs face difficulties finding candidates with the right mix of skills, qualifications and experience, which can constrain business growth and limit their ability to respond to emerging opportunities.

Building workforce capability through training and upskilling also presents challenges. Compared with larger organisations, SMEs often have fewer financial and administrative resources to invest in employee development, making it more difficult to address skills gaps and adapt to changing workforce needs.

Workforce shortages continue to constrain business growth, with NAB customers reporting ongoing difficulties attracting and retaining suitably skilled employees. Recruitment challenges remain elevated, with Jobs and Skills Australia finding that 42% of employers experience difficulty filling vacancies.[10] NAB research similarly shows that small businesses face greater hiring challenges than medium and large businesses, achieving vacancy fill rates of 52%, compared with 59% and 65% respectively.[11]

Policies that improve access to skills, reduce barriers to workforce development and support labour market participation would help strengthen management capability and growth across the economy.

Capital markets

As Australia's largest business bank supporting almost one in four SMEs with lending, NAB continues to observe strong demand for finance. The Reserve Bank of Australia (RBA) has also noted that access to finance for SMEs has generally improved in recent years.[12] While access to finance is generally available for established businesses, some SMEs can face greater challenges accessing capital through traditional lending channels.

As highlighted in NAB's October 2024 report, outstanding SME credit has continued to grow, reflecting ongoing support from banks and other capital providers.[13] However, some businesses continue to encounter financing constraints, particularly where lending assessments rely heavily on available collateral.[14] The Reserve Bank of Australia notes that about 95% of SME lending is secured, compared with 70% of lending to larger businesses, with nearly half of small business loans secured against residential property.[15] This can limit financing options for otherwise viable businesses seeking to invest, expand or innovate.

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[8] NAB, *Backing our businesses: Unlocking growth for small and medium enterprises*, October 2024.
[9] Ibid.
[10] Jobs and Skills Australia, *Recruitment Experiences and Outlook Survey (REOS)*, May 2026.
[11] NAB, *Backing our businesses: Unlocking growth for small and medium enterprises*, October 2024.
[12] Reserve Bank of Australia, *Small Business Economic and Financial Conditions*, October 2025.
[13] NAB, *Backing our businesses: Unlocking growth for small and medium enterprises*, October 2024.
[14] Ibid.
[15] Reserve Bank of Australia, *Small Business Economic and Financial Conditions*, RBA Bulletin, October 2025; and RBA lending data cited in CPA Australia, *How Interest Rate Hikes Are Affecting SME Financing*, April 2023.

These challenges can be particularly pronounced for some cohorts, including First Nations businesses, where traditional lending requirements may be difficult to meet. In June 2026, NAB and Indigenous Business Australia (IBA) launched a new corporate guarantee arrangement designed to improve access to capital for First Nations businesses.[16] Under the initiative, IBA can guarantee up to 50% of eligible business loans of up to $1 million, expanding access to capital for First Nations businesses and supporting business investment, expansion, job creation and economic development within their communities.

The RBA notes that many lenders have invested in digitisation and automation to reduce approval times, simplify documentation requirements and improve customer experience for SMEs.[17] Requirements relating to valuations, financial reporting and supporting documentation can be time-consuming and resource intensive, particularly for businesses with limited administrative capacity. Streamlining lending processes and leveraging digital technologies can help reduce these burdens. For example, NAB's QuickBiz offering provides eligible businesses with access to unsecured loans of up to $250,000 with no upfront fees and flexible terms through an online application process, enabling faster access to capital and reducing administrative complexity.

While rising interest rates affects businesses of all sizes, SMEs often have more limited access to alternative funding sources and may face comparatively higher funding costs relative to their larger counterparts. This may constrain investment in productivity-enhancing assets, technology adoption, workforce growth and business expansion.

Access to timely and appropriately structured finance remains an important enabler of business dynamism. Ensuring viable SMEs can obtain the capital needed to start, grow and invest will support innovation, competition and productivity across the Australian economy.

Improving the Effectiveness of Insolvency Processes

Insolvency frameworks play an important role in supporting business dynamism by facilitating the efficient reallocation of capital, managing business failure and enabling viable businesses to recover. While Australia's insolvency regime is broadly robust, there is scope to improve the system.

As NAB CEO Andrew Irvine has observed, business failure continues to attract a stronger stigma in Australia than in many comparable markets, including the United States, where failures are almost seen as a "rite of passage".[18] Insolvency settings are a key part of the framework shaping business entry, growth and exit. Targeted reforms that improve clarity, coordination and efficiency would strengthen outcomes for businesses, creditors and the broader economy, while supporting a more dynamic business environment.

Australian Financial Complaints Authority complaints involving insolvent companies and individuals

Australian Financial Complaints Authority (AFCA) complaints involving insolvent companies or individuals can create uncertainty, delay and complexity regarding who has the authority to commence, continue or resolve a complaint.

[16] NAB News, *NAB, IBA launch guarantee to unlock lending for First Nations businesses*, June 2026.
[17] Reserve Bank of Australia, *Small Business Economic and Financial Conditions*, October 2025.
[18] NAB News, *NAB CEO Andrew Irvine on Australia's economic outlook and the year ahead for business*, January 2026.

For companies, issues may arise where a director lodges a complaint after receivers have been appointed. In these circumstances, it may be unclear whether the director retains authority to act on behalf of the company or whether the receivers must be involved or provide consent. An open AFCA complaint may also delay debt recovery or enforcement action (unless AFCA allows it to proceed), potentially extending insolvency processes and delaying the transfer of businesses or valuable assets to interested buyers.

For individuals, similar questions can arise regarding whether a complaint should be pursued by the bankrupt individual or by the trustee in bankruptcy. While most assets vest in the trustee, some claims remain personal to the individual, including certain responsible lending claims or claims for non-financial loss.

Determining the appropriate and necessary parties to a complaint can be complex and time-consuming, particularly where a complaint involves both financial and non-financial elements.

<u>Shadow Director Risk in Restructuring</u>

Uncertainty regarding potential shadow director liability remains a key issue in restructuring and turnaround situations. While company directors may rely on safe harbour protections when pursuing a reasonable restructuring strategy, there is less clarity for third parties who help develop or support that strategy.

As a result, financiers and other stakeholders may be reluctant to engage constructively in restructuring discussions due to concerns that their involvement could be perceived as influencing company decision-making and expose them to shadow director liability. This issue may be especially relevant where restructuring proposals affect employee entitlements, including the risk of liability under section 596AB of the *Corporations Act 2001*.

This uncertainty may discourage early and constructive engagement, potentially reducing the range of restructuring options and making successful turnaround outcomes harder to achieve.

<u>Deed of Company Arrangement</u>

Deed of Company Arrangements (DOCAs) are an important tool for business recovery, particularly for medium and larger companies. However, current arrangements can create uncertainty for secured creditors.

Under section 444D of the *Corporations Act 2001*, a secured creditor’s security interest is preserved, but its underlying debt claim may still be compromised because the debt is treated as a separate claim. This means secured creditors may need to negotiate specific protections within a DOCA to ensure both their security interest and the associated debt are preserved.

Current settings can also create tension where secured creditors are asked to vote on a DOCA despite their secured position remaining largely unaffected and outside the operation of the arrangement to the extent of their security.

In practice, a secured creditor’s vote may determine whether a DOCA is approved and therefore influence the outcome for unsecured creditors, notwithstanding that the secured creditor’s own enforcement rights are unaffected. Where a proposed DOCA primarily affects unsecured creditors, consideration could be given to whether voting outcomes should more closely reflect the interests of creditors whose rights are directly compromised by the arrangement.

Greater clarity in this area could improve confidence in the framework and ensure an appropriate balance between creditor protections and business recovery objectives.

Personal guarantees and overlapping insolvency processes

Personal guarantees can extend the impact of corporate insolvency to company directors and business owners. Where company assets do not fully repay outstanding debts, creditors may pursue guarantors for any shortfall. This can result in directors or business owners engaging with both corporate and personal insolvency regimes simultaneously, potentially leading to duplication, additional costs and administrative complexity.

The interaction between these frameworks raises questions about whether they operate cohesively in circumstances where personal guarantees are called upon. Consideration should be given to seeking greater alignment between corporate and personal insolvency processes to reduce duplication, cost and complexity.

Conclusion

NAB appreciates the opportunity to provide feedback as part of this Inquiry and is very happy to discuss any part of this submission further with the PC.