Brief comments received

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1	Voluntary administration timeframes as a barrier to business dynamism and domestic recapitalisation Currently it appears Australia lacks an effective bridge between a listed company developing a viable project and the deep domestic capital pool that might prevent an insolvency event in the first place. I wish to raise a structural issue concerning Australia's voluntary administration (VA) framework that may itself operate as a barrier to business dynamism. Voluntary administration is designed to provide a rapid pathway for restructuring or otherwise resolving an insolvent or near-insolvent company. However, the accelerated statutory timetable can also have the unintended effect of excluding large domestic institutional investors, including Australian superannuation funds, from participating meaningfully in business continuation, recapitalisation or rescue opportunities. Large institutional investors are necessarily subject to governance, valuation, due-diligence, investment-committee and risk-management processes. These processes generally cannot be completed within the compressed timeframes associated with voluntary administration. By contrast, pre-positioned buyers, secured creditors, private capital or offshore entities may be able to move much more quickly, with limited competition from onshore institutional investors. The result may be a narrower pool of potential rescue capital at precisely the point when a viable Australian business most needs access to capital. This appears inconsistent with the broader objective of business dynamism. The Productivity Commission's inquiry paper identifies access to capital, restructuring, transfer of businesses and the design and operation of insolvency frameworks as areas of interest. It also notes that regulatory settings should support suitable outcomes for businesses and help move resources toward productive uses. Recent Australian resource-sector administrations illustrate the issue. I was a long-term shareholder in both Lucapa Diamond Company and Strandline Resources. Both companies entered insolvency processes, and Treasury has subsequently confirmed to me that court extensions were granted in both administrations. This raises an important policy question: if voluntary administration timeframes can be extended where necessary for the administration process itself, should there also be a mechanism allowing credible domestic institutional capital sufficient time to assess and participate in genuine recapitalisation opportunities? The concern is that superannuation funds or other Australian institutions may currently be prevented from realistically considering recapitalisation opportunities at all, including opportunities to recapitalise businesses before voluntary administration becomes necessary. Under VA processes, distressed valuations may substantially reduce the recognised value of assets held by companies whose shareholders have supported projects through lengthy and high-risk exploration and development stages. In some cases, including Lucapa, the underlying difficulty may be a liquidity or funding constraint rather than an absence of long-term asset value. This can have several broader effects: 1. Reduction in competitive tension for distressed businesses and assets. 2. Exclusion of Australian retirement capital from potentially viable domestic investment opportunities. 3. Increased likelihood of distressed transfers rather than transparent recapitalisation. 4. Loss of shareholder confidence in funding early-stage Australian businesses. 5. Potentially poorer allocation of capital across the economy. This issue may be particularly important in sectors such as exploration and mining, where companies can hold assets with significant long-term option value but limited near-term cash flow, especially during development stages. A distressed corporate valuation may not adequately reflect the future value of those projects, while the VA timetable may not allow sufficient time for potential institutional investors to independently assess them. There is also a public-sector risk dimension. In some resource projects, early-

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	stage and development risk is carried not only by shareholders, but also by public financing institutions such as NAIF and the CEFC. Yet insolvency processes can still result in strategic assets being transferred at distressed valuations while shareholders, taxpayers and domestic creditors absorb much of the loss. Recent examples including Strandline's Coburn project and Salt Lake Potash illustrate the broader issue. Safeguards across the exploration-to-development pipeline may therefore be warranted, particularly where early-stage projects such as Lucapa's Merlin tenements or more advanced projects such as Strandline hold strategic or nationally significant assets. I suggest the Commission consider whether a limited institutional participation mechanism could improve the operation of voluntary administration. Options might include: 1. A short additional recapitalisation window where credible institutional interest exists. 2. Mandatory notification of substantial listed-company administrations to appropriate domestic institutional investment channels, with consideration also given to voluntary self-notification well before potential administration. 3. Greater transparency around recapitalisation opportunities before irreversible asset or share transfers occur. 4. Consideration of whether court-granted VA extensions should also facilitate broader competitive access to rescue capital. The objective would be to ensure that speed does not inadvertently undermine the primary economic purpose of restructuring by excluding potentially viable sources of domestic capital. A well-designed framework should give economically viable businesses, particularly at vulnerable stages, a genuine opportunity to be recapitalised. In my view, the current mismatch between VA timeframes and institutional investment processes warrants examination as a potential barrier to business dynamism.