Creating a more dynamic and resilient economy inquiry

Questionnaire response 6

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1. Support business investment through corporate tax reform

1. What features of the Australian business environment have encouraged or restrained investment over the past 10 years?

The participant did not respond to this question.

2. What elements of the corporate tax system encourage and/or discourage investment and risk-taking?

The participant did not respond to this question.

3. Which parts of the corporate tax system do you find the hardest, or most time or cost-intensive to comply with? How could the compliance burden of the business/company tax system be reduced?

The participant did not respond to this question.

2. Reduce the impact of regulation on business dynamism

1. What areas of regulation do you see as enhancing business dynamism and resilience? What are the reasons for your answer?

My answers only relate to Financial Planning. I am a financial planner with 23 years' experience. The key regulatory issue is that we have what should be a profession, regulated by bureaucrats. True professions self-regulate. This is the root cause of many of our regulatory challenges. If the Commission wants to know a single step to solve the most problems in financial planning, this is it - replace ASIC with a cohort of practicing professionals sooner rather than later.

2. How has your regulatory burden changed over time?

It has increased, and as a consequence, the cost of financial advice has increased - to the point that it is out of reach for many consumers. There is ample research on this.

3. What regulations do you find time-consuming, overly complex or otherwise constraining business dynamism and resilience? What are the reasons for your answer?

The prescribed contents of advice documents and associated record-keeping. It consumes an enormous proportion of time for planners, support staff and Australian Financial Services Licensees.
Planners have no professional discretion here - ASIC prescribes the content. They are not prescribing content for the benefit of consumers - they are prescribing content to accommodate their shortcomings in regulating an industry in which they have no expertise.

4. Can you share any specific examples of where you think a regulator has done a good or bad job of understanding and reducing regulatory burden on businesses and why?

Bad job. Refer to Recommendation 9 of the Quality of Advice Review December 2022 - that has been sitting with government for 2.5 years.

Producing Statements of Advice is probably the biggest cost in the advice process. Recommendation 9 recognises this and deals with it.

ASIC has ignored this recommendation. ASIC has the power to provide guidance on how it will apply the law, including the capacity to "not apply compliance resources" to the legislative requirements regarding Statements of Advice. What ASIC could, and still should do, is inform Australian Financial Licensees that they will not apply compliance resources if advice documents comply with the obligations in the Financial Planners and Advisers Code of Ethics 2019.

ASIC could and should have taken this step well before the Quality of Advice Review - these problems have been well known for many years. The Quality of Advice Review did all the hard yards for ASIC - research, consultation, analysis and formal recommendations. A rolled gold opportunity to take action that would lead to meaningful outcomes. And even that could not galvanise them into action.

I suspect that one of ASIC's concerns would be their ability to judge whether or not advice documentation complies with the Code of Ethics. Which brings me back to the key point - ASIC should not be the regulator.

Good job? I can honestly say that having endured ASIC's regulation for 23 years, if my life depended on it, I could not identify a single action that ASIC has taken that has reduced the regulatory burden on the financial planning industry in any meaningful way.