Creating a more dynamic and resilient economy inquiry

Questionnaire response 14

Name: Real Estate Institute of Australia

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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?

The small business exemption under the Privacy Act 1988, which applies to entities with an annual turnover of less than $3 million plays a crucial role in reducing the regulatory burden and compliance costs for small businesses.

The rental, hiring, and real estate services sector is among the top three industries in Australia with the highest percentage of small businesses, accounting for 11.5% of the total 2.59 million small businesses in the country. Notably, 99% of real estate agencies are predominantly operated by small businesses, each employing fewer than 20 people on average. Therefore, maintaining the exemption strikes an appropriate balance between privacy protection and the operational efficiency of small businesses.

Compared to larger businesses, small businesses generally pose a lower privacy risk. Increasing regulatory requirements would not significantly enhance consumer protection or public confidence in these businesses. Instead, maintaining the exemption fosters a productive and innovative environment where small businesses can thrive without undue administrative burden, ensuring they remain competitive while still upholding reasonable privacy standards that safeguard consumers.

With the incoming AML obligations for the real estate sector, agencies will be subject to Section 6E of the Privacy Act, and as such the small business exemption will not apply in relation to the activities carried out for the purposes of, or in connection with, the AML obligations, i.e. customer due diligence data. This additional requirement further reduces the privacy risk of small business agencies.

2. How has your regulatory burden changed over time?

The specific areas of Australian government regulation that have impacted the real estate sector in recent years are identified as follows:
• Anti-money laundering and counterterrorism financing (AML/CTF) regulations for tranche 2 entities
• Privacy Act 1988 (Small Business exemption)

REIA acknowledges the importance of adhering to international standards established by the Financial Action Task Force (FATF) and has been working closely with the Australian Transaction Reports and Analysis Centre (AUSTRAC) on the implementation of the anti-money laundering and counter-terrorism financing (AML/CTF) obligations that will extend to tranche 2 entities from 1st July 2026.

While we are committed to supporting the implementation of effective AML/CTF measures in the real estate sector, the rules must be proportionate, flexible, and tailored to the unique characteristics of the industry, particularly for small businesses and sole practitioners.

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 implementation of the upcoming AML/CTF regime will impose an additional layer of regulatory burden on real estate agencies in Australia, which consist primarily of small businesses. The cost of additional compliance obligations will be reflected through:

• Compliance Costs and Administrative Burdens
Agencies will face operational challenges in complying with the proposed AML/CTF regime. This will involve upgrading and developing technological solutions for recordkeeping, documentation, and compliance monitoring. These system upgrades will come with significant costs that the industry and consumer must bear, as this process is resource-intensive and requires expertise that many small businesses lack. The cost of hiring external consultants or dedicating internal staff to this task will be prohibitive for most small agencies in the sector.

• Limited Staff and Resources
Ensuring compliance with the AML/CTF regulations may lead to reduced operational efficiency, as businesses might need to divert resources from their core activities to focus on compliance-related tasks. Small businesses and sole traders may find themselves increasingly reliant on external consultants to navigate the complexities of AML/CTF regulations. While these consultants can provide valuable expertise, their services come at a premium, further driving up overall operational costs.

• Capacity Constraints
Developing strong AML/CTF frameworks typically necessitates significant investment in technology and infrastructure, making it financially challenging for small agencies to implement. As noted, this will again involve upgrading and developing technological solutions for record-keeping, documentation, and compliance monitoring. These system upgrades will come with significant costs that the industry will need to bear.

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?

An essential objective of the AML/CTF framework is to smoothly integrate supplementary requirements into the standard business processes to safeguard against financial crime, thereby ensuring that sales are not unduly impeded, especially given the current housing and rental crisis.

Whilst AUSTRAC is working with industry stakeholders to reduce regulatory burden and avoid duplication in the real estate transaction process, there is a concern that compliance with these legislative requirements will demand considerable time and resources from real estate agents, diverting their focus away from core business activities. As a result, the increased administrative workload—including customer due diligence, record-keeping, and reporting obligations—may slow down transaction processes, leading to reduced house sales and lower listings turnover. The added compliance costs could also discourage some smaller agencies from operating efficiently or even force them out of the market.

More importantly, there is legitimate concern when customers are required to complete Customer Due Diligence (CDD) verification multiple times during a residential property transaction, as this unnecessarily increases the burden on the consumer. Such duplication contradicts the intent of the governing legislation.

The Explanatory Memorandum of the AML/CTF Bill emphasises this point at paragraph 322, stating:
"To reduce regulatory burden and avoid duplication where there are multiple real estate professionals (for example, in a multi-listing agreement) and other reporting entities involved in a real estate transaction, the AML/CTF Act already provides a flexible CDD reliance framework. This is set out in sections 37A to 39 of the AML/CTF Act, in which one reporting entity may rely on CDD undertaken by another reporting entity in appropriate circumstances. New reporting entities, such as real estate agencies or conveyancers, may rely upon CDD carried out by another reporting entity…"

Given these potential disruptions, it is critical that the implementation of the AML/CTF regime be closely monitored to assess its real-world impact. Regulatory authorities should evaluate whether the compliance measures are proportionate to the risks they aim to mitigate. Adjustments may be necessary to ensure the regime remains fit for purpose, balancing effective regulatory measures with the need for a functional and dynamic real estate market.

Regular reviews, stakeholder consultations, and flexibility in enforcement during the initial phase will be essential to refining the regime without unduly harming the property industry.