



Name: The Australian Financial Security Authority

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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 Australian Financial Security Authority (AFSA) contributes to Australia's economic and social outcomes by administering and regulating personal insolvencies and managing the national register of personal property securities (PPSR).

In 2023-24, AFSA had active regulatory oversight of \$17.3 billion in liabilities, including \$13.2 billion in business-related debt. Business-related personal insolvencies (that is, personal insolvencies where the individual entering insolvency has recently operated a business) account for 25% of all active personal insolvencies, reflecting the system's increasing relevance to small business operators and sole traders (this may also include company directors, secretaries, or guarantors who have given a personal guarantee for business debt).

AFSA estimates that the potential value of the PPSR is \$400 billion or around 20% of Australia's GDP. By enabling a wide range of personal property to be used as collateral for lending, the PPSR supports more flexible and efficient lending, expanding access to credit across the economy.

AFSA's regulation of these systems plays a vital role in maintaining confidence in Australia's credit system. These systems equip Australian consumers and businesses with tools to manage financial risk; contribute to investor and business confidence; improve the flow of credit to reduce barriers to investment; and promote economic growth.

While insolvency frameworks don't prevent financial failure, they ensure it is managed in an orderly, fair, and transparent way - protecting the rights of both creditors and debtors

and providing a safety net for those who have unmanageable debt. By enabling individuals, including small business operators, the opportunity to recover from financial difficulty and re-enter the economy, the personal insolvency system supports entrepreneurship, financial inclusion, and social mobility. Together with the PPSR, these systems contribute to a more dynamic, resilient, and productive economy.

2. How has your regulatory burden changed over time?

The regulatory burden under the Bankruptcy Act 1966 has grown over time, not because the legislation has become stricter, but because it has not kept pace with changes in the economy, technology, business practices, and societal expectations.

When the Act was introduced, it was designed for an environment where business was largely paper-based, local, and structured around traditional debtor-creditor relationships. In that context, the legislation functioned effectively. However, today's environment is vastly different - digital assets, online platforms, and increasingly complex personal and business structures are now common, yet the core provisions of the Act remain largely unchanged.

This misalignment between outdated legislation and current practice has created inefficiencies and added unnecessary complexity for insolvency practitioners, debtors, and creditors. Current legislation doesn't adequately account for the treatment of emerging credit products and asset classes (e.g. cryptocurrency and non-fungible tokens) and, increasingly, practitioners need to rely on regulatory guidance, in place of legislation or common law precedent, to interpret provisions not designed for today's realities.

In contrast, the Personal Property Securities Act 2009 (PPSA) is more contemporary in its structure and intent, reflecting modern commercial practices and aiming to provide a unified national system. In this system, much of the burden arises from how technically demanding and legally intricate it is to navigate - especially its terminology and registration requirements. While the system was designed to increase certainty regarding the existence and priority of security interests, in practice it can be unforgiving and hard to use without legal or technical support. This is especially true for small businesses and infrequent users.

While AFSA continues to mitigate regulatory burden through system improvements, user support and education, these efforts are increasingly constrained by the underlying complexity of the legislative frameworks that support the Personal Property Securities Register.

AFSA sees clear and ongoing opportunities to reduce regulatory burden through legislative simplification and better alignment with contemporary business practices, which would benefit both AFSA as a regulator and the Official Trustee, in addition to the individuals and businesses who interact with the personal insolvency and security systems.

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 Parliamentary Joint Committee on Corporations and Financial Services inquiry into corporate insolvency in Australia (the inquiry) considered the effects of the division

between personal and corporate insolvency law, and whether this division reflects the needs of modern Australian business (Refer 'Chapter 5 - Harmonisation of corporate and personal insolvency' for further detail). The central concern was the complexity this division can create for small and medium businesses navigating insolvency, where the boundaries between personal and corporate debt are often poorly defined.

The committee recommended that the government commission a comprehensive and independent review of Australia's insolvency laws, encompassing both corporate and personal insolvency, to assess the potential benefits of harmonisation and identify areas for reform.

While the government has yet to give its response, AFSA agrees that the separation of personal and corporate insolvency laws is a key regulatory issue that contributes significantly to time-consuming, complex processes that constrain business dynamism and resilience. Harmonisation has the potential to address the following concerns:

The separation of personal and corporate insolvency regimes creates unnecessary complexity for small businesses with similar economic characteristics.

Current insolvency rules focus on legal structure rather than business size or risk profile, resulting in inconsistent treatment of comparable entities.

Creditors face a significant compliance burden because they must understand and navigate two distinct and complex insolvency systems as they often deal with both individuals and registered companies.

Small businesses can face significant challenges when navigating concurrent corporate and personal insolvency proceedings.

Dual registration requirements for insolvency practitioners who deal in both company (regulated by ASIC) and personal (regulated by AFSA) insolvency leads to duplication, inefficiency, and increased costs borne by practitioners.

The Bankruptcy Act is outdated and lacks the flexibility to respond to contemporary credit practices and the diverse circumstances of modern debtors.

Consistent with submissions to the inquiry, AFSA's stakeholder engagement has revealed a clear appetite for legislative reform to harmonise and modernise Australia's bankruptcy laws, ensuring they reflect current economic conditions and provide fit-for-purpose insolvency options.

Similarly, the 2015 Statutory review of the Personal Property Securities Act 2009 (PPSA) (Whittaker Review) considered opportunities for minimising regulatory and administrative burdens including cost and opportunities for further efficiencies. The final report highlighted that the complexity and ambiguity of the PPSA leads to unnecessary duplicate registrations; small and infrequent users face disproportionate burden; and there is a need for simplified processes and clearer legislative drafting to reduce costs and legal uncertainty.

For example, as part of an internal data integrity project, AFSA identified a widespread

issue of duplicate security interest registrations on the PPSR – particularly hundreds of registrations made by the same company over a single asset. Following investigation, AFSA identified that some businesses had unintentionally created duplicate registrations but removed them once notified to reduce administrative burden and cost. However, others chose to retain multiple registrations due to legal uncertainty and concerns about potentially invalidating their security interests through errors in grantor details or collateral classification. Some businesses have adopted over-registration as a default risk mitigation strategy, despite the financial cost per registration and the broader implications for register efficiency and data quality.

More broadly, such complexity in the regulatory framework contributes to administrative burden and represents a missed opportunity to build agile, user-centred systems that promote innovation, business continuity, and equitable economic participation

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?](#)

Over time, AFSA has made many changes to improve system efficiency and ease of use. For example, the introduction of AFSA's Online Insolvency Services (OIS), a secure online portal for practitioners and creditors, offers a streamlined digital experience, enabling users to manage their transactions in one centralised location.

Since 2018, all debt agreement administrators are required to use AFSA's Debt Agreements Online platform for submitting proposals, variations, and related documents. This has eliminated paper forms, improved processing times, and reduced errors through automated validation checks.

Looking externally, AFSA considers the Australian Taxation Office's (ATO) modernisation of individual and business tax returns as a clear example of the ways in which regulators can help regulated system participants to save time, lower compliance costs, and improve accuracy in meeting their obligations. The introduction of online lodgement systems speeds up processing and provides greater convenience, while pre-filling and data-matching services help to reduce errors and simplify compliance.

Digital reforms benefit both the regulated and the regulator by improving productivity. Businesses can free up time and resources to redirect toward core business activities, rather than compliance, while regulators are enabled to detect risks early, and focus their limited resources on higher-value activities such as education, compliance and enforcement.