

6 September 2017

The Treasury  
Digital Policy  
Langton Crescent  
PARKES ACT 2600  
AUSTRALIA

*Via email: [regmod@treasury.gov.au](mailto:regmod@treasury.gov.au)*

Dear Mr Dickson

### **Submission on Modernising Business Registers**

Thank you for the opportunity to provide a submission on the Discussion Paper *Modernising Business Registers (DP)*.

The Australian Institute of Company Directors (**AICD**) is committed to excellence in governance. We make a positive impact on society and the economy through governance education, director development and advocacy. Our membership of more than 40,000 includes directors and senior leaders from business, government and the not-for-profit sectors.

The AICD is supportive of measures to streamline business interactions with government. We support a one-stop-shop approach for businesses interacting with government, which will reduce duplication, regulatory burden, improve user experience and address privacy issues.

Whilst this consultation is limited to 31 registers, there are many registers that exist that have significant overlap in both what they store and the entities included on them. The AICD recommends the government develop an overarching strategy for modernisation of business registers – for example, consolidating all registers into a single nationally recognised directory for managing business identity. This could be the centrepiece for significant reductions in duplicated effort allowing government agencies to adopt and use the register as their primary source of business information, rather than maintaining their own registers and data sets. Each agency could then supplement information unique to them.

To date, individual initiatives have been undertaken such as the work on the National Business Simplification Initiative and the Business Registration Service. We support these separate initiatives, but encourage consideration of an overarching vision with cross agency support.

We understand the need to focus on the ASIC registers at this time, given the urgent need for the IT infrastructure to be updated now that it is confirmed that a private operator will not operate the ASIC registry services. The AICD is supportive of modernising these registers, although as indicated above we would prefer this to be undertaken under a broader umbrella of a one-stop-shop approach to business interactions with all levels of government.

As part of this project, a key priority should be ensuring that ASIC company register information on public display is correct. This is often not the case for companies limited by guarantee that are registered charities as they are now required to lodge information changes with the Australian Charities and Not-for-Profits Commission (ACNC) rather than ASIC. This causes issues for registered charities when banks and other third parties search ASIC's registers and find outdated information and may refuse funding, incurring additional time and cost by charities, amongst other potential issues. While the information is currently flagged and viewers are told to refer to the ACNC register, a more permanent solution is necessary. We recommend that this issue be dealt with as part of the DP project, using a technology solution to ensure the correct information is publicly available via ASIC searches.

As with any IT system, information confidentiality and security issues are also paramount. The landscape, expectations and concerns around these issues have evolved in the 25 years since the companies register and related laws were established. The AICD considers that the DP should also prioritise reviewing the extent to which information that is collected is publicly displayed with these considerations in mind.

In particular we note that the ASIC company register displays the following personal information about each director:

- Given names and family names
- All former given names and family names
- Date of birth
- Place of birth
- Residential address.

Given cybersecurity and privacy concerns, the AICD does not support the continued public availability of such a wide range of directors' personal information. While there is some consideration in the areas of personal safety through a 'silent enrolment' from the Australian Electoral Office, there is currently no consideration or regard given to the possibilities of cybersecurity issues such as identity fraud which has become an increasing threat.

Australian directors are far more exposed than their international counterparts in terms of the degree of public accessibility of personal information. The most recent change to reduce the risk of identify fraud from publicly available information on directors was made in the United Kingdom (**UK**)<sup>1</sup> which now only displays the month and year of birth on the companies register (and not the actual day). The UK also does not display the place of birth and directors can opt for the publication of a 'service address' in place of a residential address on the public register.

The AICD recognises that there is a case for access to personal information of company directors in circumstances where there is a public interest justification. Examples could include access by lawyers for legal notices or relevant legal research, or access for journalists for public interest journalism. The AICD recommends that the government investigate ways to enable access to personal information in relevant circumstances, for example through application to ASIC for defined or public interest purposes.

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<sup>1</sup> Section 96 of the *Small Business, Enterprise and Employment Act 2015*

The AICD also supports the publication of a 'service address' in place of a residential address, on the ASIC companies register. This would enable legal practitioners and process servers to carry out their duties without the need to apply for information which is critical to commencing proceedings against directors.

The AICD also supports initiatives to make it easier to track directors' activities through the introduction of Directors Identification Numbers (DINs). While the AICD supports the introduction of DINs as part of measures to combat 'phoenix activity', the DIN would also make it easier for users (including journalists and lawyers) to track an individual director's board history.

Any new system design for the modernisation of business registers should address these issues and should allow for the introduction of DINs in order to track directors where necessary.

We hope our comments will be of assistance to you. If you would like to discuss any aspect of this submission, please contact Kerry Hicks, Senior Policy Adviser, on (02) 8248 6635 or at [khicks@aicd.com.au](mailto:khicks@aicd.com.au).

Yours sincerely



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