

Modernising Business Registers

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We appreciate that the time for submissions had past but that an extension has been granted until Friday 24th August 2018. The Australian Credit Forum would like to make the following submission on behalf of its members.

The Australian Credit Forum was established in 1965 by a group of senior Credit Professionals, Lawyers, Solicitors, and Liquidators and senior executives from various Mercantile & Debt Collection Agencies and Credit Reporting Bureau.

Further information on The Forum, its aims and objectives and current membership details can be found on our website:

www.australiancreditforum.com.au

The current membership consists of senior Credit Professionals and Managers from a broad range of major Australian and International Companies. Some of the members have over 40 years' experience as Credit Managers. In our day to day roles, we naturally encounter instances where the identification of a director or directories have not been established leading to issues with recovery, etc.

Modernising Business Registers Program

1. What flexibility would you like to see introduced into the relevant legislation?

As removing inflexibility is one of the main goals of the reform it's essential that the new regime is as flexible as possible. This, in turn, means that the systems are scalable enough to meet future technology requirements. The system has to be user-friendly and the flexibility should be able to assist both those parties with information being registered as well as those third-parties seeking information on the register.

2. What modern services should be provided for Australia's business registers?

There has to be the ability for persons and businesses with information registered to be able to log in securely to check and change that information as need be. There has to be the ability for persons who want access to the information to be able to obtain that information in a user-friendly, efficient and cost-effective way.

3. What services should be provided to allow direct connection from business systems to the registers?

Users should be provided online access to the information and persons who have their information registered should be the same. There system has to be efficient, especially when large amounts of data are being transferred. Also, security has to be guaranteed to ensure confidence.

4. What interactions with the Registers should be considered to improve the quality of the registry data?

It is important that good information is fed into the register at the time of registration. For someone to register there should be a 100-point check similar to when someone opens a bank account. We consider that this can be done quite easily in a number of ways, for example:

- (a) Attending a Post Office to have your identification verified;
- (b) Having your identification verified by a justice of the peace or solicitor;
- (c) Online by way of some kind of security token; or
- (d) Employing a service that attends to verify your identity.

With respect to (d) one of our members recently had cause to register with the system for Land and Property NSW. An appointment was made online and someone visited his office to take copies by way of photos on an iPad of his identification documents. Those copies were uploaded overnight into the system. It was a very easy-friendly process.

We also note the following information that we consider should be the minimum information available to consumers:

- (i) Registered Address
- (ii) Street Address
- (iii) Postal Address, if different from above
- (iv) Email Address
- (v) Date of Birth
- (vi) Date of Appointment (as director)
- (vii) Phone numbers

Another thing that we believe is critical is the registration of trustees of a trust with the same information as listed above. At the moment when you search the ABN for a trust it just says that it is owned by “the trustee of trust” without naming the actual trustee. It is important that consumers are able to ascertain precisely who that trustee is.

5. What interactions should be considered to ensure the registry data remains up to date?

The use of Director Numbers as well as, say, ABN for businesses as unique identifiers means that once information is updated for a person or business it can immediately be updated across all registers. Having said that, it is important that historical information remains available to consumers. Also, the legislation should impose penalties for persons and businesses who do not keep their information up to date to try and ensure it's the case. Further, people and businesses who do not keep the information up to date (for example, the email address they have given is no longer accurate) can have their registration cancelled after appropriate notice.

6. How do you consider registration, annual review and renewal processes could be improved?

We have dealt with registration above. Review and renewal can be by way of notice sent to the person/business that lists their information and asks them to confirm it has not changed or, if it has changed, make appropriate amendments. This notice can be by way of email that allows them to click relevant parts of the email to make changes as appropriate. It can also be by way of post directing them to a site where changes can be made.

7. How do you consider search functions within the Registers could be improved?

The register should allow a wide variety of searches to allow users to locate the information they require. Users should be able to look up information by the usual means but also by way of such things as street addresses, postal addresses, email address and telephone numbers. The more varied the fields that can be used to search the more user-friendly the system will be (and, as a result, the more efficient and reliable it will be).

8. What types of API users (e.g. registrants, intermediaries, data consumers) could the Charging Framework appropriately apply to?

We do not believe that it is fair to charge consumers of the information any more than a nominal amount – though we do believe there should be some charge to avoid companies mining that data, including for illegal reasons such as identity theft. We believe that the cost of the system should be covered by those who register information as a cost of business.

9. What fee structures should be considered if the Charging Framework was applied? For example, should data users be charged a “per transaction” fee or an “annual subscription fee”.

We believe that either example could work and, in fact, a consumer should be given the choice between them. It would come down to what is most appropriate for the consumer's purposes.

10. What access rules should be placed on API users to facilitate innovative use of registry data.

Once an API user has proven their identity we believe that their access to data should be virtually unlimited. When we consider the type of data that will be contained within the registry, the fact that it is for business purposes means that the “personal information” contained therein should be

readily accessible. Making that information available to interested third-parties is one of the costs of doing business.

11. What level of identity verification should be required to obtain a DIN? Is it appropriate to use a digital identity to verify the identity of the company director? If not digital, what other identity verification means should be used and why?

As set out above, there should be a 100 point check to confirm a director's identity.

12. Ensuring that all directors consent to their role as a company director will be an important part of forming a company and maintaining its registration. What is the most appropriate and efficient manner of gaining a director's consent before issuing a DIN?

The most efficient and appropriate manner is for the consent to be given by way of a statutory declaration as part of the process by which a director registers for a DIN.

13. Should the law allow authorised agents to apply for a DIN on behalf of their client? If so, how does this fit in the consent framework?

The application for DIN must be made by the director personally, especially because of the identification requirements. This also removes the possible argument that the "agent" was not authorised.

14. What DIN related data should be made publicly and privately available (that is, only available to regulators)? Does the provision of a DIN remove the need to make director and other company officer address data publicly available? What privacy and security concerns are there around the public availability of the DIN?

The data should be made publicly available because transparency is needed to ensure the reliability of the process. We cannot think of any information that would be on the register that should only be made privately available. As far as privacy and security concerns, if you are a director you are, to some extent, giving up your right to privacy and if there are some security concerns (such as, you don't want people to find you) then you should not be a director of a corporation.

Yours sincerely

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Australian Credit Forum