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## **Submission from the Synod of Victoria and Tasmania, Uniting Church in Australia on Modernising Business Registers**

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The Synod of Victoria and Tasmania, Uniting Church in Australia welcomes this opportunity to provide input to the consultation on the Modernising Business Registers Program. The Synod has significant experience of people being able to set up front companies in Australia for the purposes of Shifting proceeds of crime from overseas into Australia, money laundering, tax evasion, illegal underpayment of employees, fraud and concealment of beneficial ownership. These activities cause real and serious harm to people. People can register companies using fictitious names, false addresses, false and multiple dates of birth and false birth places almost with impunity. There is no easy way to search the ASIC databases to verify the identity of people or the accuracy of the corporate registry information. For example, we did a scan of the ASIC database on the name “James Bond” and believe that, in addition to a number of real people with that name, one James Bond may have been a fictitious person, but it was impossible for us to determine if that was the case. There is a great need to modernise Australia’s business registers so that the general community and businesses can have confidence that the information contained within the registers is accurate. Further the registers need to be to searchable and readily accessible at a reasonable cost.

In addition to the work the Synod does investigating harmful activities carried out by businesses and individuals, the Synod itself engages in numerous business transactions, some of significant financial size (such as property developments around churches, housing, community service agencies, aged care facilities) and needs to conduct due diligence on those it is entering into business relationships with.

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

The Synod supports there being flexibility in the legislation achieving its purpose and ensuring the administrative burden in registering a business and maintaining the relevant information (such as directors, place of business, beneficial owners) be kept to the minimum necessary to achieve its purpose. However, flexibility must not compromise the integrity of the information collected. It should be made very difficult to register businesses using false identities and false addresses or using front people to conceal the real directors, owners and controllers of the business.

### **2. What modern services should be provided for Australia’s business registers?**

The registers should be made more easily searchable. For example, it should be possible to search on a person and find out how many companies they are a director in and how many they are a beneficial owner in.

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

There should be the same level of certainty of people's identity in registering as owners and directors of businesses as there are in opening a bank account to make it more difficult to register as an owner or director using a false identity or at a false address.

The Government should check if a person registering a business as a director or owner is on an international watch list for criminal activity or is a politically exposed person (PEP) under the Financial Action Task Force definition. In the latter case, greater due diligence should be performed by the Registrars before the registration is accepted.

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

ASIC's corporate database is expensive to access by comparison to the corporate registers in other jurisdictions, such as the UK. The reduction in access fees announced by the Government on 1 July is a welcome step forward, but it would be desirable to reduce access costs to users further if the fees being charged are still above what it actually costs to provide the service. The government also needs to consider the costs to businesses and the community if fraud and other criminal activities are at a higher level because businesses and investors have been deterred from doing thorough due diligence due to the costs involved in doing multiple business registry searches.

The business registers should have search functions that would allow integrity checks to be made. For example, the UK Government had previously revealed that 6,150 people acted as directors of more than 20 UK registered companies, with some people being directors in over 1,000 companies, clearly indicating some directors were acting as front people for the ultimate beneficial owners. Given, there has been no similar analysis of the ASIC corporate register, we have no idea how large this problem is in Australia and there is no easy way to easily search the ASIC database to determine if this problem exists.

Further, a research report by World-Check had previously shown that almost 4,000 people who appear on various international watch lists were registered as directors of UK companies. This included 154 people allegedly involved in financial crime, 13 individuals wanted by Interpol for alleged terrorist activities and 37 accused of involvement in the drugs trade.

While the government should not be allowing people who are wanted criminals to register as directors and beneficial owners of companies, it should also be easy for people entering into business relationships to search the business registers to determine if there is any suspicious registering and deregistering activity by the people they are entering into business with as part of their due diligence. This will allow reputable businesses to better avoid entering into business relationships with people where there are higher risks of unethical or illegal activity taking place, or having in place appropriate safeguards in the business relationship.

#### **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 should be used and why?**

The level of identity verification required should be at a level to ensure the person obtaining the DIN is who they say they are, living at the address they say is their place of residence and their date of birth and place of birth is their real date of birth and place of birth. It should not be possible for someone to be able to 'steal' or borrow identity documents from another person and use their identity documents to register as a director. As long as these objectives can be achieved, then the Synod is flexible in the requirements to ensure this is achieved. For example, it might be possible for

a person to go to a post office to verify their identity to register a company, in much the same way a person can verify their identity to obtain a passport at a post office.

The law around DINs should also require a Director to disclose if they are acting in the role as an agent for someone else, to reveal those people acting as professional directors of large numbers of businesses to conceal the identity of the real directors of the businesses. There should be a penalty for not revealing that a person is acting as an agent for another person in a director role.

**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 Synod opposes authorised agents being able to apply for a DIN on behalf of their clients. In the Synod's experience too many agents, such as corporate service providers and accountants, fail to adequately verify the identity of the people they are acting on behalf of, or in more extreme cases collude to conceal the real identity of the person. In the same way an agent is not able to obtain a passport on behalf of a person, it should not be permissible for an agent to obtain a DIN for another person.

**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?**

There should be no reduction in the amount of information publicly available about company directors as a result of the introduction of a DIN. A reduction in the availability of such information would reduce the ability of businesses and bodies like the Synod to conduct their own due diligence on businesses they are entering into relationship with.

At a minimum, the name of directors, their date of birth, place of birth, place of residence and past and current history of being a director should be made available publicly. There is no evidence the Synod is aware of that the availability of such information currently has resulted in any significant problems for existing company directors. Further, there has been significant benefit to those needing to carry out business due diligence by having such information available. Even when the information has been false, it then has allowed bodies such as the Synod to be suspicious and wary of the person who has provided the false information. That said, it is extremely desirable to remove the ability to lodge false information as a director of a company.

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