

Our Ref: DEPAOF01/16/SGC:GK:cb  
Reply To: Parramatta

15 August 2018

Mr Matthew Sedgwick  
Consumer and Corporations Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

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

Dear Mr Sedgwick

### **Re: Modernising Business Registers Program**

I refer to your request for submissions in relation to The Treasury's proposed "*Modernising Business Registers Program*".

#### **A. CONDON ASSOCIATES**

Condon Associates is a specialist Firm of Forensic, Insolvency and Turnaround Practitioners headquartered in Parramatta, NSW. The Firm undertakes Liquidations (Official and Voluntary), Receiverships, Voluntary Administrations and Deeds of Company Arrangement under the provisions of the Corporations Act 2001 (Corporations Act), as well as the formal administration of Bankrupt estates and Part X Arrangements pursuant to the Bankruptcy Act 1966 (Bankruptcy Act). In addition the Firm provides services within the related areas of Forensic Accounting, and Litigation Support as well as business and financial Turnaround and Advisory Services not involving formal appointments.

It should be noted that the general focus of our corporate work is in the small to medium, proprietary companies rather than Publicly Listed entities.

The Firm's Managing Principal, Schon Gregory Condon, was an Official Liquidator, now a Registered Liquidator and Registered Trustee in Bankruptcy with in excess of 40 years of experience in the field, with almost 30 years at the Principal/Partner level.

#### **B. SUBMISSIONS**

We note that whilst we have not adopted the direct number of the discussion paper our views on each of the questions raised remain in the same order.

##### **1. Flexible Options for Registrars Design Considerations**

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

We would like to see there being multiple access points which are not locked into a single specific information provider. We also see the ability to combine information

**CONDON**  
FORENSIC INSOLVENCY TURNAROUND  
ASSOCIATES

**Head Office**  
Level 6, 87 Marsden Street, Parramatta NSW 2150  
T 1300 939 129 | F 02 9891 1833  
P PO Box 1418, Parramatta NSW 2124  
E [enquiries@condon.com.au](mailto:enquiries@condon.com.au)

**NSW Offices**  
Sydney  
Central Coast  
Penrith

**Bankstown  
Central West**



from the multiple different registrars as being a key driver in reducing the economic burden of having to conduct multiple different searches.

## **2. Enhanced Registry Services Design Considerations**

### *a. What modern services should be provided for Australia's business registers?*

We are of the opinion that the modern services should be a single point of search for whole of government data. This will result in more comprehensive results and streamlining of the searches.

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

As this is a technology focused query, we are unable to provide any detailed comment on this.

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

Consideration should be given to making the systems easier updatability on a more frequent basis. There will need to be a corresponding penalty for whoever is required to update the register, this will ensure all information is up to date and accurate.

### *d. What interactions should be considered to ensure the registry data remains up to date?*

In order to maintain the registry and ensure it remains up to date, there needs to be an emphasis placed on those parties who need to provide updates to lodge those updates. The process needs to be as automated and streamlined as possible. Consideration should also be given to penalties for not providing updates as well as data integrity checks with those who do lodge.

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

The process needs to be as streamlined as possible, so as to ensure whoever is dealing with the registry is not overburdened with compliance, as this then changes the focus of those providing updates. The ability for any forms to be pre-filled with data to prevent duplication will also assist.

## **3. Funding Registry Infrastructure Design Considerations**

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

The introduction of the ability to conduct more natural searches rather than specific keywords, as parties may not know exactly what they are searching for i.e. company or individual names that have unusual spellings



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

As this is of a more technical issue, we are not in a position to provide any detailed comments or feedback on the proposal.

- c. *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 are not in a position to provide any commentary on this issue as we have not been involved in the preparation of fee structures for this type of model. However, a charge by use fee or a reasonable annual subscription fee would be acceptable.

- d. *What access rules should be placed on API users to facilitate innovative use of registry data?*

As this is of a more technical issue, we are not in a position to provide any detailed comments or feedback on the proposal.

#### **4. Director Identification Numbers Design Considerations**

- a. *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?*

The level of identity verification should be no less than what is required under the AML/CTF for individuals. There should also be a mandatory verification process which includes the use of for, eg individuals TFN. The ideal DIN would have the structure of like xxx.xx.xxx.xxx which could include multiple references and must be generated by the registry and should include part of the individuals name, DOB, this will ensure a usable and specific identifier.

- b. *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?*

We believe that there needs to be some form of education/training requirement for people wanting to become a director and, as such, obtaining the DIN. This education can be cover topics such as costs of formation, what directors may be personally liable for implications of company failing, could be online type course provided by ASIC, have input from other governmental bodies as well as insolvency industry.

- c. *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?*

It may be more practicable to allow an agent to apply for the DIN on behalf of a director, , however the individual director will still need to undertake the education requirements.

- d. *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?*

In order to make the registry more beneficial and create economic benefits the DIN should contain a public email address so that documents for the company are more readily able to be served on the director.

There should also be a private side to the register. There should be no real privacy concern as it is likely the director would conduct trade using the public email address and may relive the need to give actual physical address. There may also need to be corresponding amendments to the relevant Court Acts to allow service of this nature.

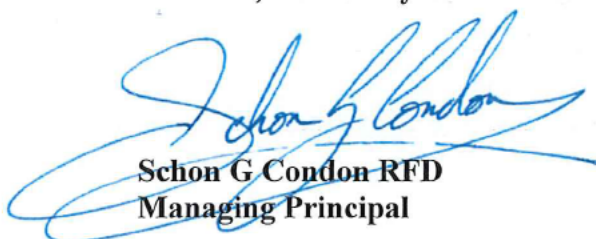
## C. CONCLUSION

We congratulate Treasury on seeking wide input and thank you for the opportunity to do so. Our responses have been based on experience in the area and the available time, whilst still maintaining an active practice. Should you have any enquiries in respect of this matter, please contact Schon Condon or Gavin King or of this office on [REDACTED]

Yours faithfully

**Condon Associates**

**Forensic, Insolvency and Turnaround Practitioners**



**Schon G Condon RFD**  
**Managing Principal**