



05 March 2021

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by email: MCDinsolvency@treasury.gov.au

Dear sir

Increasing the Statutory Demand Threshold

We refer to Treasury's consultation paper titled *Increasing the Statutory Demand Threshold* that was released on 15 February. We set out our response to the questions raised in the paper below.

Key points

- We support an increase in the statutory demand threshold to \$10 000.
- The change should take effect from 1 July 2021 or three months after amending instruments take effect.
- The effects of the change should be reviewed, especially with a view to assessing the effects of the increase on unsecured creditors' ability to recover debts.

Question 1: Should the threshold at which a statutory demand can be issued on a company be increased?

Yes.

Question 2: If the threshold is increased, to what amount should it be increased and why?

A reasonable figure would be \$10 000. This would align with the recent increase to the creditor's petition threshold within the bankruptcy regime. It would also strike a balance between competing considerations including the need to confine use of the insolvency process to instances where reasonably significant levels of debt are involved, against the need to ensure small businesses with outstanding debts owing to them have this remedy among their suite of options.

For some creditors at least, commencing administration processes where debts are lower than \$10 000 is unlikely to be viable as the costs may outweigh any benefits.

Question 3: If the threshold is increased, when should this change come into effect?

The change should take effect from 1 July 2021 or three months after amending instruments take effect.

Question 4: What will be the impacts of increasing the threshold?

We believe that the net benefits of this change would be positive. The primary benefit would be to reduce the instance of complex and expensive administrative processes being instigated in response to relatively low debt amounts.

However, we believe that the effects of the change should be reviewed, especially with a view to assessing the effects of the increase on unsecured creditors' ability to recover debts. This could be a particular problem for small businesses, for example.



Australian Banking
Association

Yours sincerely

A handwritten signature in black ink that reads "Jerome Davidson".

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