

5 March 2021

Manager
Market Conduct Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: MCDInsolvency@Treasury.gov.au

Consultation Paper: Increasing the Statutory Demand Threshold

CPA Australia represent the diverse interests of more than 168,000 members in over 100 countries supported by 19 offices globally. We make this submission on behalf of our members and in the broader public interest.

CPA Australia generally supports amendments to existing legislation that will enable Australian businesses to remain viable and which will create less confusion amongst advisors. Amendments to existing legislation are encouraged and should be viewed in wholistic terms and not as a reaction to current economic conditions. We recommend measures supporting greater financial literacy amongst average Australians, along with the availability of credits (via a voucher system) to obtain independent targeted financial advice, to assist small to medium business.

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

Yes. The current statutory demand threshold is presently too low and does not reflect modern business size and practice. Whilst it can be an expensive process to commence a winding up application against a company, the current statutory threshold amount makes it too easy to wind up a company through the Courts.

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

It is our members' opinion that the threshold should be increased to \$10,000 to align to the personal insolvency threshold. An alignment of the thresholds is likely to decrease confusion amongst trusted advisors of business.

In addition to the above, we are of the opinion that:

- An increase beyond \$10,000 will potentially diminish the rights of small business creditors who are significantly more likely to have debts below \$20,000.
- An increase to \$10,000 has the potential to reduce the Court times as it may lead to a reduction in winding up applications before the Courts.
- An increase to \$10,000 may lead to businesses paying closer attention to the collectability of accounts receivable. This is in line with the proposed E-Invoicing policy that the Government has announced as part of the 'Digital Business Plan'.
- An increase to \$10,000 is likely to lead to negotiation of commercial settlements of debts amongst the parties which may lead to a reduction in the amounts claimed by businesses as a bad debt expense.

For these reasons we believe that an increase in the threshold will make it easier for businesses to operate and receive accurate advice from advisors.

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

The change should come into effect at the commencement of a financial year. We believe it should be 1 July 2021. This will allow businesses who have already gone to the expense of undertaking the statutory demand process to finalise the process in the accounts for the financial year end. It will also provide a definitive date to record a bad debt expense in the financial accounts of the business.

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

As previously noted, we believe that increasing the threshold to provide uniformity to the bankruptcy threshold will lead to a reduction in possible confusion amongst stakeholders. We also believe that increasing the threshold to \$10,000 will enable businesses who have been impacted through a temporary cash flow shortage the ability to negotiate with creditors on revised repayment terms, without the fear of having their company wound up through the Courts.

We hope our comments contribute to the ongoing conversation around the future of Australia’s corporate insolvency system and we look forward to continuing engagement in developments that seek to improve outcomes for the businesses affected and the wider economy.

If you require further information on the views expressed in this submission, please contact Kristen Beadle, Manager – Public Practice & SME on 0413 883 581/Kristen.beadle@cpaaustralia.com.au or Dr John Purcell, Policy Advisor – Environmental, Social and Governance on 03 9606 9826/john.purcell@cpaaustralia.com.au .

Your sincerely



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