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5 March 2021

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By email: MCDinsolvency@treasury.gov.au

Increasing the Statutory Demand Threshold

The Housing Industry Association (HIA) provides this correspondence in response to the discussion paper released by Treasury on 16 February 2021 which considers increasing the current statutory demand threshold.

About the Housing Industry Association

HIA is Australia's only national industry association representing the interests of the residential building industry, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the industry, HIA represents a membership of 60,000 across Australia. The residential building industry includes land development, detached home construction, home renovations, low/medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members comprise a diversity of residential builders, including the Housing 100 volume builders, small to medium builders and renovators, residential developers, trade contractors, major building product manufacturers and suppliers and consultants to the industry. HIA members construct over 85 per cent of the nation's new building stock.

General Comments

HIA supports an increase to the statutory demand threshold.

According to ASIC the "construction" industry appears largely represented in the overall number of insolvencies across the economy.

The well-known cyclical nature of the sector means that the insolvency framework will have a greater impact on the survival of businesses in the residential building industry than other sectors.

Equally, the industry's importance to the national economy and the employment the industry generates means that measures should be adopted to support its efficient and effective operation.

There is a unique regulatory framework that applies to residential building work nationally.

People that carry out residential or domestic building work must be licensed or registered. This license or registration gives an individual or a business permission to carry out that work. It is the basis on which they can trade.

The license or registration of a builder can be adversely impacted when an insolvency event occurs.

For example, in NSW all builders require a license to carry out residential building work. Insolvency can result in disciplinary action, loss of license and may even prevent an individual from obtaining a license in the future. A similar approach is taken across a number of jurisdictions.

Those operating in the residential building industry are placed in the unenviable position of needing to hold a license to trade in order to pay their debts but, if facing insolvency, may be prevented from doing that which would see them move out of financial distress.

The aim of any increase to the statutory demand threshold should be to support businesses, particularly small businesses, recover from financial hardship without the threat of insolvency based on the non-payment of relatively low amounts.

Methods to manage and respond to outstanding debts should not be used as a sword, but rather a shield to protect those owned money by a non-paying entity.

The amount of the statutory demand threshold put in place to respond to the economic impact of COVID-19 would seem a sensible starting point when considering an increase to the threshold. HIA did not receive any feedback that this approach had any adverse impacts.

Please feel free to contact me on (02) 6245 1305 or by email at m.adler@hia.com.au if you would like to discuss this further.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED



Melissa Adler
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