

Dear Treasury,

I refer to your Consultation Paper on the Schemes of Arrangement

Please excuse my bluntness but Treasury have completely missed the core issue with a Scheme of Arrangement, and why they are not widely considered.

The Act requires an application to Court which frankly is a costly exercise that only a few companies have the resources for, along with a ridiculously high percentage of creditors to agree to the Scheme. This basically wipes out the usefulness for SME's as the Court application costs and legal costs, let alone the lead time in the Court system. Assuming a creditor or group oppose the application the legal costs could simply double or treble. As such looking at the type of Company it would ordinarily for would be considered a large organisation like a Myer, Virgin Airlines and the like.

In addition, the rights of PPSR creditors (assuming they even respond to day one correspondence) and the threat of FEG action for utilising any circulating assets to continue trade to the alleged detriment of priority creditors, has in essence wiped out Schemes and VA's

Any variations in the legislation to accommodate the large companies is a complete waste of resources when the core problem brewing is in the SME market; this is were the focus should be.

The Legislators came up with SBR's which are a complete flop (technical term) as there was literally minimal consultation with practitioners and recommendations from the Practitioner bodies were effectively ignored for a consumer body. As a practitioner, my PI insurance does not cover me for SBR's and accordingly, like most of fellow practitioners, I will not even consider one as the insurance costs would exceed the income derived. In addition to the insurance, a firm has to recreate new standards at a further cost, and also suffer at the hands of a complex web of legislation that has been cable tied together like a bad quilt.

In addition, the Simplified Liquidations which is another ill thought out legislative change, actually cost more to do than a simple Creditors Voluntary Liquidation. The appointment numbers speak for themselves.

So simply, focusing on a piece of legislation for large companies that probably only impacts on less than 1% of insolvency appointments is a frivolous consumption of resources.

Again, my apologies for being blunt.

More than happy to discuss any of the above.

Regards,

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