



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

15 December 2022

Director

Beneficial Ownership and Transparency Unit

Market Conduct Division

The Treasury

Langton Crescent

PARKES ACT 2600

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

Dear Sir/Madam,

### **Multinational tax integrity: Public Beneficial Ownership Register**

Thank you for the opportunity to comment on the proposed Public Beneficial Ownership Register (the register). The register as formulated presents a significant compliance burden for small and family businesses that should be considered closely against any demonstrable benefits in respect of these entities.

Our key recommendation is that a threshold should be considered that excludes small businesses from mandatory participation in the register as a proportionate approach to the risk of deliberate tax avoidance. The exemption could be achieved using a definition of 'small business' like that used in the *Australian Small Business and Family Enterprise Act 2015* that references the number of employees and business turnover. Such an exemption would help address upfront and ongoing costs of compliance that would have a disproportionate negative impact on the sector. Also, given that completion of register information would likely be outsourced to trusted advisers, the exemption would help minimise the measure's cost to small business and the possibility of unintentional errors made by advisers.

Further, consideration should be given to addressing the following:

- 1. The register provides significant personal privacy concerns for small and family business owners.** If participation remains mandatory for small businesses, the register should not be publicly available. The availability of private information as proposed in the register significantly increases the beneficial owners and associated contacts' vulnerability including to scam activity. Consideration should be given to alternatives to ensure personal information is not made available unless clearly necessary. This could include only making available certain information on request.
- 2. Information deemed necessary should be gathered using existing reporting obligations to minimise the burden on business.** Where a business is required to participate in the register, we recommend the use of existing reporting obligations, such as the Director ID and other natural systems, to mitigate the compliance burden. Further, following the introduction of the register we suggest compliance activity prioritise information and guidance over enforcement action.
- 3. The treatment of trust structures regarding compliance with the register.** In many circumstances, a proprietary company will be owned through one or more trust structures.



Careful consideration needs to be given to the reporting expectations for these business structures. For example, where a company is owned by a discretionary trust there may be several beneficial owners, further increasing the compliance burden and the likelihood of unintentional non-compliance.

- 4. Awareness of the proposal should be thoroughly promoted through the business community.** Further consultation should be undertaken in the design phase, both to adequately address the needs and concerns of small businesses and avoid unintended adverse consequences for growth and employment. Following the introduction of the register, it is essential that businesses are made aware of their obligations through the provision of adequate information and guidance.

If you wish to discuss this matter further, please contact Mr Cameron Dyson-Smith on 02 5114 6105 or at [Cameron.Dyson-Smith@asbfeo.gov.au](mailto:Cameron.Dyson-Smith@asbfeo.gov.au).

Yours sincerely

**The Hon. Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman