



INSTITUTE OF
**PUBLIC
ACCOUNTANTS®**

**Submission:
Modernising
Business Registers
Program**

DATE: August 2018

Introduction

The Institute of Public Accountants (IPA) welcomes the opportunity to offer our '**Modernising Business Registers Program**' submission and looks forward to working with the Government as it sets its economic agenda.

The IPA is one of the three professional accounting bodies in Australia, representing over 36,000 accountants, business advisers, academics and students throughout Australia and internationally. The IPA prides itself in not only representing the interests of accountants but also small business and their advisors.

The IPA's submission has been developed in partnership with Deakin University through the dedicated IPA Deakin SME Research Centre

We look forward to discussing further in more detail the IPA's recommendations. Please address any further enquires to Tony Greco, General Manager Technical Policy via tony.greco@publicaccountants.org.au

28 August 2018

Consumer and Corporations Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: regmod@treasury.gov.au

Modernising Business Registers Program

The Institute of Public Accountants (IPA) in partnership with the IPA-Deakin SME Research Centre is pleased to submit the following perspectives on the discussion paper on the Modernising Business Registers Program.

The IPA commends the government for continuing with the process of modernising business registers. IPA members use the registry on a frequent basis to ensure their practices and businesses of their clients are meeting lodgement deadlines in an appropriate fashion.

Information technology has advanced to a stage where a single register is able to be implemented by a national department, regulator or authority so that it becomes easier for individuals and entities to interact with the system irrespective of the purpose for their engagement. We encourage the Government to expedite the establishment of a single portal that permits the lodgement of and search for information related to individuals and entities.

IPA members have raised concerns over problems they face, accessing and using multiple registers. The current systems are inefficient and private businesses and individuals are required to enter the same information to access information stored in a number of different systems. This is unnecessary red tape and the streamlining of 32 existing registers into one portal would be welcomed by IPA members and their clients.

State, Territory and Commonwealth cooperation

It is acknowledged, however, that creating a single register requires the cooperation of all relevant levels of government and their respective departments. The existing regulatory regime for the incorporation of entities covers both Commonwealth and State jurisdictions.

It will be necessary for both tiers of government to ensure that duplication of registers is eliminated in the first instance. This will require coordination with the relevant policy and information technology areas of departments to ensure integration of all relevant entries stored on various national and state registers occurs with minimal error and disruption. This assumes that the present regime with two distinct legal structure regimes for companies and incorporated associations remains intact for the foreseeable future.

The referral of powers from the State governments to the Commonwealth related to the setting of laws for incorporated associations is a logical step for future regulatory developments. Creating a single register that combines all the information related to an individual or entity – depending on the business structure that is used – deals solely with the objective of pooling information provided by entities under existing rules and regulations. There is merit in regulating all incorporated associations at a national level. This would create a single legal regime for a large proportion of entities that are incorporated in Australia. One of the key benefits of such a merging of multiple state regimes into one national regime is that reporting, lodgement and other regulatory requirements would be the same. There is no sound reason for entities that have a similar purpose to be subjected to different regulations and rules because of jurisdictional peculiarities.

Technological advances that make a single register possible while also creating an environment in which a single regime for the incorporation of entities at a national level is achievable. States and territories may require some financial compensation for the loss of any revenue from registrations and lodgements in the first instance. The removal of these functions from state government departments to a national agency may also relieve certain overhead costs met by the departments in the various states and territories. It should also be noted that the ability to create a single register also weakens the case for the maintenance of individual state-based incorporated association regimes across Australia.

Funding and maintenance of registers

The IPA believes that all of the registry information should be overseen by a single government body. It is critical that information that is provided for compliance with government regulation is overseen by a government body with appropriate checks and balances.

Some time ago there was a tender process that could have resulted in registers being upgraded and maintained by a private sector entity, which in our view would have been an inappropriate outcome. The information collected belongs to the community and any registry should be operated and overseen wholly by the relevant government agency. It is consistent with the view expressed above that the information is collected by regulators in the public interest as a condition of creating a legal person incorporated under Commonwealth, State or Territory law. Free access to such information may not be possible if the registry was ever operated by a private company that has, at its core, a profit motive rather than the objective of serving the public interest. Maintenance, updating and upgrading of the register should also be funded from consolidated revenue. This is an all-encompassing register that is being kept for the purposes of legal compliance, community benefit and consumer protection.

Free access to key information

The new registry model should have as a key principle, that information be freely accessible to creditors, suppliers, the media and other stakeholders. Companies and associations

utilise legal protections available under law. Information provided to the regulator – and subsequently to the public - should be recognised as being a transaction cost of establishing a company or association. Information about the entity, the individuals that run it and its structure must be freely available in the public domain. There is no substantive justification for non-disclosure of relevant details to the public.

The Government should consider replicating the model for access to financial reports and other corporate information that is in existence in the United States via the Securities and Exchange Commission (SEC). The SEC provides free access to the financial statements of SEC registrants and such a system is consistent with the general philosophy of regulators ensuring the corporate lodgements are made available to the public on a timely basis to minimise information asymmetry in the marketplace. Financial reporting is not just a tool to assist management to keep track of its own performance – it exists in its present form because there is a public interest in understanding the operations of entities that have been permitted to use the corporate veil.

The filing of information with the corporate regulator is a part of an obligation the company has in return for the privileges of incorporation. That information should be freely accessible to the community in which those entities operate. It is time to reconsider the issue of access fees given that the technology exists to create a more open and free database for financial information.

A previous consultation paper stated that the Government has a policy for open data and a more modern registry would provide the opportunity to re-evaluate current pricing policies for access to company records online. There are clearly examples of company details that are no longer updated by staff of a regulator and those should be made freely available to the public. Any data that was previously processed using the hard copy Form 484, which would include current and historical company extracts, should be freely available without question under the guidelines relating to open data. Nothing has come to our attention that would suggest the corporate regulator adds any value to the data other than provide the platform on which it is lodged.

ASIC has 267 forms to update information listed on their web site.¹ Of these only 84 can be updated electronically with the remainder being paper based. Even those forms which can be submitted through the ASIC portal are subject to checking before being confirmed by ASIC which implies a manual check is made to confirm the data². For the system to improve its efficiency, it needs to be completely automated.

Research in corporate disclosure practice

Researchers and stakeholders require access to corporate records in order to conduct empirical research. The cost of accessing these records is currently prohibitive and begs a fundamental question: why are people paying for records that are basically being kept in the

¹ <https://download.asic.gov.au/media/4820895/master-forms-list-19-july-2018.pdf>

² <http://download.asic.gov.au/media/1192142/oh-user-guide-change-company-details-change-of-address.pdf>
see note at bottom of document

public interest? The financial statements and other company details should be freely available given that the information is being collected for the public interest. It appears incongruous that the members of the public interested in viewing the information need to pay for reports and other lodgements when in fact companies must, as a price for getting to use the veil of incorporation, supply the regulator with financial and other reports. This review of the way in which registers are created and operate across all Commonwealth departments is an ideal opportunity to create a system where financial statements lodged with the corporate regulator are made freely available to all interested parties.

Ensuring open access to these databases also means the researchers and academics are able to conduct research that examines the compliance of entities with company law and other relevant regulation such as accounting standards. Understanding trends in regulation and compliance is critical from both an enforcement and policy development perspective. The current situation requires academics to request access to a data set for examination. Free access to material lodged by companies and associations would mean that investigations into compliance would be conducted more readily. Australia's regulatory regime would be able to benefit from more timely research on compliance and quality of reporting.

Director identification numbers

A new system of identification numbers for directors that is proposed must have processes that minimise the chance of identity theft. It is also important that individuals are not nominated by unscrupulous business operators as directors without their knowledge. This has occurred in multiple cases and most prominently in the Plutus payroll fraud when individuals in retirement homes were nominated as directors without their consent or knowledge.

An individual applying for a director's identification number should have to verify their identity using the 100 point ID system³ certified by an appropriately qualified person or ideally electronically as is allowed in Queensland⁴. This would ensure that individuals applying for an identification number would be verified in the first instance. It is necessary to improve the verification process if the identification number is to be a useful identifier an individual can use for their entire life, as is the case with the existing tax file number.

Design considerations:

1. What flexibility would you like to see introduced into the relevant legislation?

All data pertaining to all types of entities and associations should be consolidated into a single register. Such a register would allow stakeholders to access their data needs via a single portal.

2. What modern services should be provided for Australia's business registers?

³ <https://www.homeaffairs.gov.au/Licensing/Documents/100-points-identification-guidelines.pdf>

⁴ <https://identity.qld.gov.au/help/faq.html>

As these registers are used to capture data, all systems should be consolidated into an on-line portal which is easy for business entities to enter and maintain up-to-date data. This should focus on ease of use which means it should move beyond developing electronic versions of the legacy paper forms. The current existing registers are used to support business needs. Any IT system has two functions: first, to collect data and second, to convert that data into information that is suited to the needs of stakeholders.

A survey of the frequency of currently used output reports needs to be developed to identify the most common data requests from stakeholders, including the needs of ASIC for compliance checks. This survey should form the basis of a list of available standard reports. Consideration also needs to be given to creating an easy to use and accessible ad hoc reporting system. An integrated system is necessary so that all data can be accessible to the reporting system.

3. What services should be provided to allow direct connection from business systems to the registers?

To allow connection to the consolidated registers, all data capture needs to be moved into an on-line portal and the data structured for ease of querying.

4. What interactions with the Registers should be considered to improve the quality of the registry data?

The easier the data entry is, the more likely it is to be correct. A modern interface is needed that moves beyond a computerisation of the legacy paper forms and should be prepopulated where possible. To enhance data integrity data should only be captured once. With so many forms in the current ASIC system it is unlikely that they are all capturing unique data. An integrated system would be likely to fill in many of these forms from data already held in the system.

5. What interactions should be considered to ensure the registry data remains up to date?

Much of the data capture in the registers is required to be updated within 28 days with penalties for tardy compliance. Provided the submission and capture of the data is straightforward, this would seem to be an appropriate regime.

6. How do you consider registration, annual review and renewal processes could be improved?

A unified database would be able to automate notification.

7. How do you consider search functions within the Registers could be improved?

As mentioned above, standard reports need to be accessible, chosen from a list with the provision of an ad hoc reporting capability. Downloaded information should be in a format that is easy to import into analytical tools such as Microsoft Excel.

Please feel free to contact us directly should you require further clarification on any of the issues raised or other questions related to our submission.

A handwritten signature in black ink, appearing to read 'Tony Greco', is positioned above the typed name.

Tony Greco
General Manager Technical Policy
E: tony.greco@publicaccountants.org.au

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Contact

IPA Head Office

Level 6, 555 Lonsdale Street
Melbourne Victoria 3000
Australia

Tel : 61 3 8665 3100

Fax: 61 3 8665 3130

Email : headoffice@publicaccountants.org.au

Website: www.publicaccountants.org.au/

IPA Divisional Offices are located in the following cities:

Melbourne

Sydney

Brisbane

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For enquiries within Australia call 1800 625 625 for your nearest Divisional Office.

International enquiries can be directed in the first instance to IPA Head Office.