



Australian Government
The Treasury

TSY/AU

MODERNISING BUSINESS REGISTERS PROGRAM

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Manager
Media and Speeches Unit
The Treasury
Langton Crescent
Parkes ACT 2600
Email: medialiaison@treasury.gov.au

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Consultation Process

Request for feedback and comments

Closing date for submissions: 17 August 2018

Email regmod@treasury.gov.au

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

Enquiries regmod@treasury.gov.au

The principles outlined in this paper have not received Government approval and are not yet law. As a consequence, this paper is merely a guide as to how the principles might operate.

Modernising Business Registers Program

Background

In the 2018-19 Budget, the Australian Government announced that it will modernise the Australian Business Register (ABR) and the Australian Securities and Investment Commission (ASIC) business registers on a platform that will be administered by the Australian Business Registrar within the Australian Taxation Office (ATO).

The ASIC registries and the ABR form a critical piece of Australia's economic infrastructure that enables businesses and companies to be established and regulated. The IT infrastructure underpinning the Australian Government registry services needs to be addressed to meet growth in demand for these services now and into the future. The proposal to modernise the business registers is expected to reduce the number of business registry systems run by government and create a whole-of-government platform with a higher quality data source on businesses in an integrated register. Modernising business registers will address registry fragmentation, improve business user experience, reduce risks of ongoing operating, foster data driven innovation and enable better use of registry data.

A large number of businesses are required to interact with these registries. For example, there are over 2.5 million registered companies and over 2.2 million registered business names. The ASIC registry handles over 900,000 public enquiries and processes over 2.9 million updates per year. Whilst at the ABR there are over 7 million registered ABNs. The registers are accessed millions of times per day by businesses and individuals, checking they can trust who they are dealing with. In 2016–17 there were over 90 million ASIC searches and 780 million ABR searches.

The objectives of the Modernising Business Registers program (the Program) are to:

- increase reliability and trust in business registry services;
- improve service delivery to and reduce complexity for business;
- increase access to data availability to facilitate greater use and innovation;
- deliver benefits to government by reducing the long-term costs of business registry services;
- provide greater flexibility to respond to policy issues such as the black economy and phoenix activity;
- foster economic activity and mitigate economic losses for businesses by minimising instances of fraud and business misconduct; and
- build trust and confidence in the government's digital and data transformation initiatives.

Previous consultation

In August 2017 the Australian Government released a discussion paper on Modernising Business Registers to seek feedback from a broad range of stakeholder groups on their experience in using business registry services. The paper prompted stakeholders to consider issues including the strengths and weaknesses of existing registries, access to data, absence of data and privacy and security issues.

Treasury received 30 submissions from a range of stakeholder groups during the consultation process. Stakeholders expressed support for consolidating and modernising business registers, including delivery by the ATO. The stakeholders expressed concerns with existing registries largely focused on the type, format and accuracy of available data and the cost of searching and accessing data. This stakeholder feedback helped us to define the problem and informed the development of a potential solution for the Government to consider.

Further information on the previous consultation can be found at <https://treasury.gov.au/consultation/mbr/>

The Government has also undertaken a Discovery process (consistent with the Government's Service Design and Delivery process¹) to gain insights into how users interact with the registers. The Discovery included contextual research with a range of businesses and intermediaries in both metropolitan and regional areas. The team also consulted with the New Zealand Government and a range of agencies across tiers of government. A Discovery Report outlining user pain-points, needs and observations with recommendations for current and future registry services is expected to be completed in July 2018.

The current problem

High compliance costs and regulatory burden

In order to comply with their reporting obligations, businesses are required to interact with numerous registry services and are often providing the same information. This makes it burdensome to find or update information and is time consuming and costly for business to understand and meet their initial and ongoing registration obligations.

Data integrity

The distribution of registry accountabilities under current legislation across different regulators has meant that there has been no harmonisation or rationalisation of business data collection and authentication requirements. As well as contributing to red tape this has created inconsistency in data between registers, has provided an opportunity for unfair business practices and is stifling potential innovative uses of business register information by businesses and government.

Meeting user demand is difficult

The current IT infrastructure underpinning the ASIC business registers is ageing and will not be sufficient to meet future needs. In order to ensure efficient operation of registers for existing and future stakeholders and to provide a platform that can be extended to cater for future business registry services, a contemporary IT environment is required.

Restrictive legislation

The current legislation restricts ASIC's ability to interact with clients in their preferred manner and has not kept up with digital technology. For example, the legislation has not been modernised in relation to what information to collect, how to collect it and then how to notify regulated entities.

A modern registry would be capable of adapting and responding to changes in technology, emerging international and domestic trends and policy over time.

It is envisaged that legislative change will be required to support modernisation of the registers. Further information on the proposed legislative changes is outlined at [Attachment A](#).

¹ <https://www.dta.gov.au/standard/service-design-and-delivery-process/>

Working toward a solution

In the 2018-19 Budget, the Australian Government considered the stakeholder feedback and advice from the relevant agencies and directed the Department of Treasury, the ATO, the Department of Industry, Innovation and Science and ASIC to develop a detailed business case for modernising the Australian Government's business registers. The detailed business case will provide options for improving the integrity and accessibility of business information, and increasing the efficiency of registry services.

This Program is not simply an IT refresh. The Australian Government is taking the opportunity to rethink the way registry services are delivered in Australia. The Government is seeking to:

- improve the user experience and simplify the way clients interact with Government registers;
- modernise legislation to provide greater flexibility and choice for regulators which will allow contemporary interactions with clients;
- improve the quality, trustworthiness and accessibility of business data;
- streamline internal processes; and
- potentially foster more data driven innovation and business models.

The Program has many different components, however there are four focus areas that we would like to consult with key stakeholders on (please see attachments for further information on each of the below):

- **Legislation** - *What legislative changes are required to allow for the modernising of business registers?*
- **Registry Service Enhancements** - *How we can enhance the services offered and improve the user experience?*
- **Funding registry infrastructure** - *How should we fund the business registers in the future?*
- **Director Identification Numbers (DIN)** - *What is the best way to implement a DIN?*

We value your feedback as it will assist in ensuring the modernised business registry will be designed to make it easier for businesses to:

- register their business;
- keep their information up to date; and
- improve economic conditions and foster innovation by increasing the quality and accessibility of registry information.

This in turn is expected to reduce the compliance burden when dealing with Government.

Next steps

We welcome submissions/feedback via email to regmod@treasury.gov.au until 17 August 2018.

Further information

ATTACHMENT A

Proposals for law change

The Government intends to bring forward legislation to enable the Modernising Business Registers program (the Program) to fulfil its objectives. The aim is to do more than move the existing registers to new IT infrastructure while administering the registers in basically the same way. Instead, the new law will allow the management of registry information to be more flexible and to evolve as technologies change.

Identifying Registrar powers and functions

ASIC currently operates many business registers in accordance with the specific requirements of Acts administered by ASIC. The relevant ASIC laws are in the *Corporations Act 2001*, *Business Names Registration Act 2011*, *National Consumer Credit Protection Act 2009*, *Superannuation Industry (Supervision) Act 1993*, and related Regulations and fees Acts. The Australian Business Register is operated by the Australian Business Registrar under the *A New Tax System (Australian Business Number) Act 1999*.

The proposed law package will look to identify statutory functions in these laws that enable and require the operation of business registers, and will provide for each of these functions to be performed by an existing Commonwealth body (such as the Commissioner of Taxation) appointed as 'Registrar'.

Other functions in the ASIC laws will be retained as functions of ASIC, to be administered by ASIC as regulator just as they are today.

Flexible options for Registrars

The proposed law could allow flexible administrative options to the registry powers and functions that are identified by the law. The key features of these rules are intended to include:

- The Minister being able to appoint a Commonwealth body as Registrar for one, more, or all of the Registrar functions. It could be desirable to have more than one Registrar, particularly during the transition from the current to new registry systems.
- The Registrar or Registrars having the flexibility to decide what information to collect and record for each Registrar function.
- Registrars being able to decide the manner in which information is collected (enabling pre-filling from other information sources, for example, and combining multiple applications from the one applicant).
- Registry information being updated where the Registrar has access to more accurate information.
- Registrars being able to choose communication channels for all registry purposes, including electronic communications.
- Registrars having flexibility in disclosing registry information, including by making appropriate information available to the public.

- All registry information being available to ASIC for regulatory purposes, and ASIC regulatory outcomes that affect registry information would be available to the Registrar to reflect in registry information.

The aim is for flexibility in all these elements to permit the Registrar the maximum choice in how to carry out registry functions. No immediate change in practice would be mandated by the law. The aim will be for current practice and possible future practice (even using technologies not currently foreseen) all to be within the scope of what the law would allow.

We also intend that the law will enable these arrangements to be readily extended to additional Commonwealth registers if and when that is desirable, so that other existing or new registry information could be managed with the same degree of flexibility.

The draft legislation is expected to be released by Treasury for public consultation later in the year.

Design considerations

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

Enhanced Registry Services

The Modernising Business Registers Program (the Program) will modernise 32 legislated business registers.

These registry services are provided by agencies to assist users with meeting their regulatory requirements. Examples of these services include:

- call centre, website and other enquiry support services to assist clients meet their regulatory requirements;
- streamlined web service (such as the business registration service) to make the registration process simpler;
- search of registers (both simple and complex searches including relationships and historic data);
- direct connection from business systems to access the data on registers to assist with verifying a business and to allow searching of records;
- enhanced data/information products and services; and
- inbound/outbound correspondence and notification services.

The Program is considering ways to enhance registry services to improve the user experience and meet the government's policy objectives. These improvements do not just relate to improvements to websites. Examples of the enhancements being considered include:

- Simplifying the process for businesses to register and meet their reporting obligations.
 - This could include maximising the re-use of data already held by government to allow information to be reused (consistent with the Australian Government Agencies Privacy code commencing on 1 July 2018), eliminating duplication of data and data sources, and by harmonising and synchronising interactions with government.
- Improving the way in which businesses meet their obligations and maintain the data held by government as part of the normal course of business. This includes allowing a business to manage their own data, authorise third parties to access the data, and facilitating the connection of management software to the business registers.
- Improving notification processes so that regulated entities are better informed of their obligations and legislative changes that apply to them.
- Creating a user-centred data model that allows a person to have a consolidated view of their data even when held for different legislative purposes. For example, a director of a company who may also be a partner in a partnership should be able to see and manage updates to data about them even though there are different legal entities.
- Information on owners will be improved and transparency increased to provide businesses and individuals with greater confidence that they know who they are dealing with.
- The enhanced services will be designed to be highly available, allowing businesses to choose how they interact with the registers and at what time.

Design considerations

The Program would value your feedback on the following items:

2. What modern services should be provided for Australia's business registers?
3. What services should be provided to allow direct connection from business systems to the registers?
4. What interactions with the Registers should be considered to improve the quality of the registry data?
5. What interactions should be considered to ensure the registry data remains up to date?
6. How do you consider registration, annual review and renewal processes could be improved?
7. How do you consider search functions within the Registers could be improved?

Funding Registry Infrastructure

In April 2015, the Government agreed to implement a whole-of-government charging framework (the Charging Framework) to apply across the general government sector. The Charging Framework provides that where an individual or organisation creates demand for a government activity, they should generally be charged for it, unless the Government has decided to fund the activity.²

The Framework outlines that charging for government activities can:

- promote equity, whereby the recipients who create the need for a government activity, rather than the general public, bear its costs;
- influence demand for government activities;
- improve the efficiency, productivity and responsiveness of government activities and accountability for those activities; and
- increase cost consciousness for all stakeholders by raising awareness of how much a government activity costs.

Consultation in 2017 revealed that users would like the ability to update their information on their internal systems and that these updates also be sent automatically to update business registers. Similarly, there is demand for improved search facilities to access higher quality (and consolidated) data on Australian businesses.

To meet these demands, the Modernising Business Registers Program (the Program) is expected to offer real-time access to the business registers. This access is expected to be provided via modern application programming interfaces (APIs).

Application of the Charging Framework

The Program is considering how the Charging Framework could be applied to the services being provided when users access these APIs.

No decisions have been made on application of the Charging Framework for using APIs. The Program will undertake consultation in relation to the Charging Framework's application.

The Program is also cognisant that accessing data held by ASIC can result in fees. ASIC is legally obliged under the *Corporations Act 2001* to charge fees for some search products. ASIC also collects fees for bulk data access arrangements. The imposition of these fees will be taken into account in the consideration of how to apply the Charging Framework.

Design considerations

The program would value your feedback on the following items:

8. What types of API users (e.g. registrants, intermediaries, data consumers) could the Charging Framework appropriately apply to?
9. What fee structures should be considered if the Charging Framework was applied? For example, should data users be charged a "per transaction" fee or an "annual subscription fee".
10. What access rules should be placed on API users to facilitate innovative use of registry data?

² <https://www.finance.gov.au/resource-management/charging-framework/>

Director Identification Numbers

As part of a package of reforms to deter and penalise illegal phoenix activity, the Government announced in September 2017 that it would introduce a Director Identification Number (DIN). The Modernising Business Registers program (the Program) is working on developing legislation and testing implementation options for government consideration.

Currently, the law requires directors to lodge certain details with ASIC. However, the law does not require ASIC to verify a director's identity.

Principles

The DIN would require all directors to confirm their identity. The DIN will be a unique identifier for each person who consents to act as a company director. The person will keep that unique identifier for life, even if their directorship with a particular company changes.

The DIN will provide traceability of a director's relationships across companies and interface with other government agencies and databases to allow regulators and market participants to map the relationships between individuals and entities and individuals and other people.

The adoption of DINs will enable better tracking of directors of failed companies and prevent the use of fictitious identities. This will ensure that directors of companies that enter external administration can be clearly identified and will assist regulators and external administrators investigate a director's involvements in what may be repeated unlawful activity including illegal phoenix activity.

Design considerations

The program would value your feedback on the following items:

11. What level of identity verification should be required to obtain a DIN? Is it appropriate to use a digital identity to verify the identity of the company director? If not digital, what other identity verification means should be used and why?
12. Ensuring that all directors consent to their role as a company director will be an important part of forming a company and maintaining its registration. What is the most appropriate and efficient manner of gaining a director's consent before issuing a DIN?
13. Should the law allow authorised agents to apply for a DIN on behalf of their client? If so, how does this fit in the consent framework?
14. What DIN related data should be made publicly and privately available (that is, only available to regulators)? Does the provision of a DIN remove the need to make director and other company officer address data publicly available? What privacy and security concerns are there around the public availability of the DIN?