

8 February 2019

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

Via Email: ASICFunding@treasury.gov.au

Dear Mr Bogiatzis

Exposure Draft – ASIC Industry Funding Model and Registry Search Fees

Thank you for the opportunity to provide a submission on the Exposure Draft of the draft Treasury Laws Amendment (ASIC Cost Recovery and Fees) Regulations 2019 (the **Exposure Draft**).

The Australian Institute of Company Directors (**AICD**) has a membership of more than 43,000 including directors and senior leaders from business, government and the not-for-profit (**NFP**) sectors. The mission of the AICD is to be the independent and trusted voice of governance, building the capability of a community of leaders for the benefit of society.

In principle, the AICD supports the Exposure Draft, in particular the reduction (and in the case of journalists, the elimination) of search fees from 1 July 2019. This proposal will enable information on the Australian Companies Register to be more readily accessible, thereby enhancing public transparency.

However, at the same time, we also note that the current Australian Companies Register (ACR) currently contains sensitive personal information of directors and officers (such as date of birth, place of birth and residential address). The public availability of such personal information (which is out of step with other jurisdictions such as the UK and New Zealand) has raised serious concerns of members with respect to privacy, cyber-security and personal safety. An unintended consequence of the changes to search fees is that the risk of harm to directors will increase given this personal information will be more easily accessed by members of the public.

As we have advised Treasury in other submissions, in today's modern digital world, personal identity information is a key exploitation target of cyber and identity criminals. Further, external experts we have engaged in this area have indicated that public holdings of identity information are known to have attracted serious and organised crime committed to exploiting this information for criminal misuse. We understand a number of instances exist where it is clear the ASIC public registry has been exploited by criminals, and enduring risks remain, both direct and indirect for directors and officeholders.

We understand that the draft legislation on *Modernising Business Registers* intends to remove such personal information from the *Corporations Act 2001*, and replace this with disclosure standards (that will be consulted on separately) contained within regulations. If this proposed draft legislation and the review of disclosure standards is not progressed in a timely manner, we consider that the public availability of personal information on the current Australian Companies Register be reviewed as a matter of priority. This is important for current registers, as well as any future registers in development.

We consider it is important that the public information available on individual directors and officers be consistent with the underlying rationale of current privacy laws. Current privacy laws, in particular the mandatory data breach notification laws, mean that the release of personal information (such as that on the ACR) would be notifiable to impacted persons on the basis that this information is commonly recognised as likely to create “significant harm” to the impacted persons. This is indicative of the value that such information has to identity thieves.

We hope our comments will be of assistance to you. If you would like to discuss any aspect of this submission, please contact Kerry Hicks, Senior Policy Adviser, on 028248 6635 or at khicks@aicd.com.au.

Yours sincerely



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