



Australian Government
The Treasury

TSY/AU

Modernising Business Registers Program Review of Registry Fees

Consultation Paper
November 2018

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Consultation Process

Request for feedback and comments

Closing date for submissions: 21 December 2018

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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.

Introduction

The Government is modernising business registers to support businesses in an evolving digital economy. In the 2018-19 Budget, the Government announced that the modernised registers will be administered by the Australian Business Registrar (ABR) within the Australian Taxation Office (ATO). A detailed business case with options for streamlining registry functions and upgrading technology systems is being developed for consideration by Government in 2019.

Registers administered by the Australian Securities and Investments Commission (ASIC) and the ABR will be moved to a modernised platform. This includes the registers for companies, business names, Australian Business Numbers (ABNs) and others.

A modernised business registry system will provide the backbone for transforming the way business interacts with Government, making it simpler and faster to start and run a business. It will provide opportunities to foster open data and allow more innovative uses of business data.

A large number of businesses are required to interact with these registers. For example, there are over 2.6 million registered companies and over 2.3 million registered business names and ASIC registry handles over 3 million updates per year. The ABR has over 7 million registered ABNs. The registers are searched millions of times per day by businesses and individuals, checking they can trust who they are dealing with. In 2017–18 there were over 122.4 million ASIC Registry searches and over 1 billion ABR searches.

ASIC currently collects a range of fees through the operation of the ASIC Registers. Fees are a necessary component of the registry system. However, the Modernising Business Registers Program provides a timely opportunity to review both the quantum and nature of these fees, and to ensure the business registers are funded sustainably into the future.

Earlier consultation has indicated that the Government is looking at ways to sustainably fund the registry infrastructure into the future¹. This consultation considered applying the Government's Charging Framework for the use of the IT infrastructure².

Following feedback from that consultation, the Government is now seeking your views on how to improve a broader set of registry fees with a view to making them simpler, easier to understand, more equitable and to create a funding environment where future upgrades to maintain a contemporary business registry is assured. The infrastructure fee review consulted on earlier is also covered again in this review.

The Government has not made a decision on the structure or quantum of fees generated by registry information and use. Recommendations from this review will be considered as part of the detailed business case being considered by Government in 2019. Any changes to the current fee regime will take into account the state of the ASIC mainframe, and will be delivered over the longer term as part of the Modernising Business Registers Program.

Further, any recommendations from this review will also consider other government policies such as the Government's response to the Black Economy Taskforce Report³, the Australian Government's Charging Framework (the Charging Framework) and Open Data policy⁴.

¹ <https://treasury.gov.au/consultation/c2018-t310411/>

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

³ https://static.treasury.gov.au/uploads/sites/1/2018/05/Black-Economy-Taskforce_Final-Report.pdf

⁴ <https://www.pmc.gov.au/public-data/open-data>

Scope

The fees associated with ASIC's business registers are separate to the levies and fees for service ASIC charges to recover its regulatory costs under the ASIC Industry Funding Model (IFM). This review is not considering the levies and fees for service associated with the IFM. The IFM is designed such that the levies and fees imposed on regulated entities are proportionate to the amount of regulatory activity ASIC undertakes for that entity. Registry fees and IFM fees are charged separately through different processes, with the exception of a \$4 regulatory levy which is charged to all proprietary companies together with their registry annual review fee. This was designed as the most efficient way for small proprietary companies while minimising their reporting burden.

Possible fees for director identification numbers or an ABN are also out of scope of this review.

This review is reconsidering the imposition of fees including; annual review, registration application, late lodgement, review, and payment, business name registration and renewal and search fees.

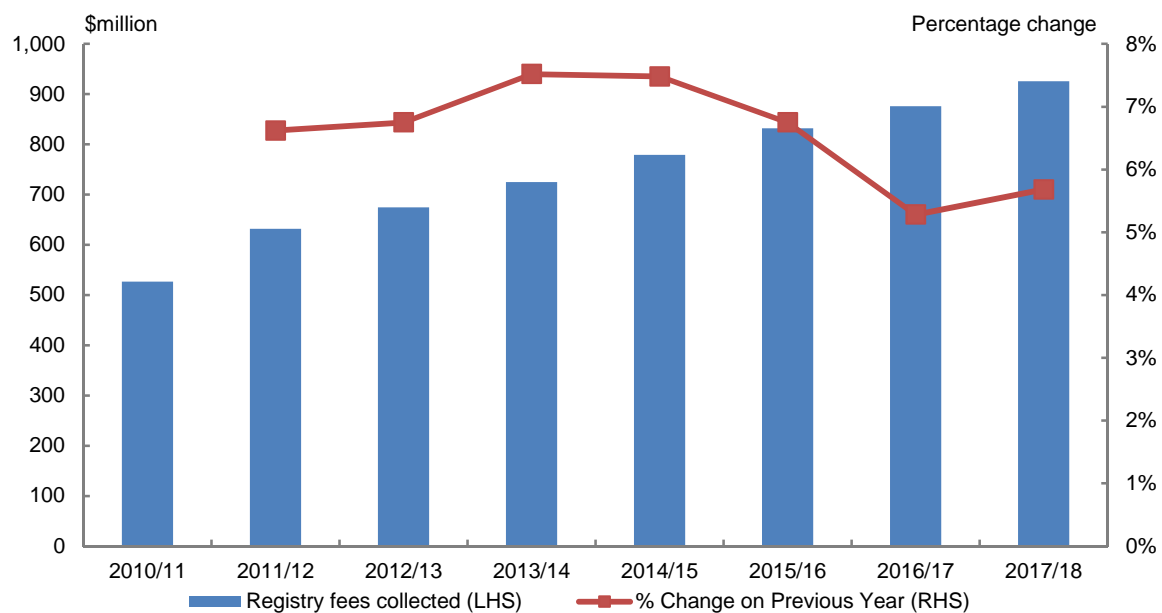
In addition an infrastructure fee option was first considered in July 2018 when the Government released a consultation paper "Modernising Business Registers Program". This paper specifically consulted on how to apply the charging framework to the service of making bulk data available in real time through modern Application Programming Interfaces, or comparable technology, recognising that ASIC is already legally obliged to charge search fees for access to some data (See Attachment A). The majority of submissions, including discussions during workshops, noted a preference for considering registry infrastructure funding as part of the greater registry fee context. Written submissions can be found at <https://treasury.gov.au/consultation/c2018-t310411/>.

What registry fees are currently collected?

ASIC collects a range of registry fees from companies and other entities under Commonwealth laws. This includes annual review, registration application, late lodgement, late payment late review, business name registration, business name renewal and search fees.

The total value of registry fees collected by ASIC in 2017-18 was \$925m, a 5.7 per cent increase on the previous year. Since 2010-11, registry fees collected by ASIC have increased each year, at a rate of between 5.3 per cent and 7.5 per cent. The growth is associated with a combination of an increase in demand for searches, growth in the registered population of companies and business names and fee indexation.

Figure 1: ASIC Registry Fees growth over 8 years



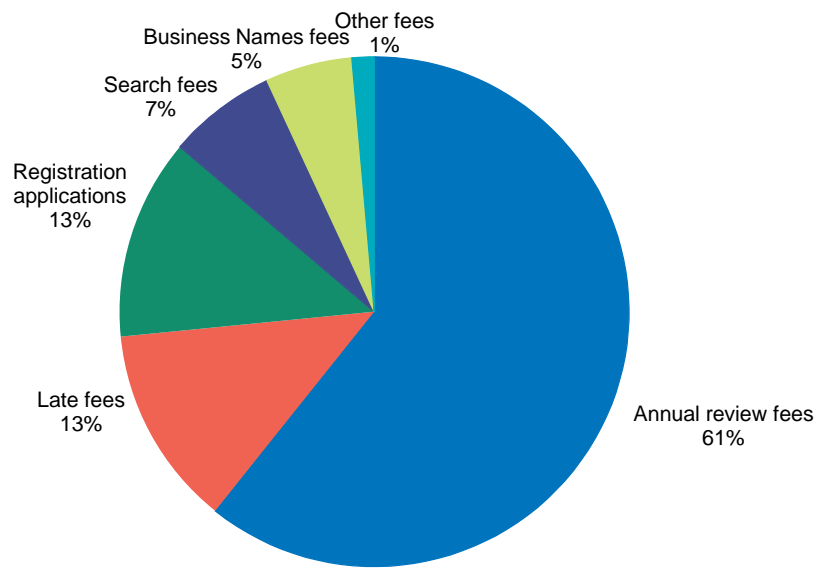
Source: ASIC

In aggregate, over half of the registry fees collected are annual review fees (see Figure 2). While the overall amount of registry fees collected has increased each year, the proportion raised from each fee type has remain relatively constant.

Annual review fees progressively increase in aggregate because the total company population continues to rise each year (around 100,000 more companies have been incorporated than deregistered each year in Australia over the past five years), and because the fees are indexed annually to the Consumer Price Index⁵.

⁵ Indexation of ASIC fees commenced 1 July 2010, as outlined in 2009-10 Federal Budget. <https://asic.gov.au/for-business/payments-fees-and-invoices/asic-fees/asic-fee-indexation/>

Figure 2: Composition of ASIC Registry Fees 2017-18



Source: ASIC

Summary of Registry fee environment key fees

The following table summarises the applicable fees for this review:

Fee Type	Description	Fee amount (as at October 2018)	Revenue raised
Annual Review	<p>Fee paid on the anniversary of registration.</p> <p>Every company and managed investment scheme has an annual review date, usually the same date it was registered. To maintain an entity's registration, the following are required:</p> <ul style="list-style-type: none"> - payment of the annual review fee and the associated requirement to update company details (if required), - for most companies, a resolution by the directors that the company is able to pay its debts as they fall due is sufficient. <p>The review fee enables a company to maintain the benefits and responsibilities of a legal entity.</p>	<p>The annual review fee charged depends on the company type:</p> <ul style="list-style-type: none"> - \$263 for a proprietary company (this includes the \$4 IFM fee); - \$53 for a special purpose company (proprietary) - \$49 for a special purpose company (public); - \$1224 for a public company. 	<p>The largest component of Registry fees is annual review fees levied on Australian companies, which comprised just over 60 per cent of the total fees collected in 2017-18 (\$562m).</p>
Registration Application	<p>Initial fee to apply to register a company.</p> <p>The registration of a company creates a separate legal entity which brings with it a range of benefits, including limiting personal liabilities and responsibilities and duties outlined in the <i>Corporations Act 2001</i>. Responsibilities include lodgement of documents so that the public and government dealing with the company know that it exists and who its directors are. Companies also</p>	<p>The fee for registering an Australian company with share capital is \$488 and \$103 for a special purpose company.</p>	<p>Registration fees for new companies comprised 13 per cent (\$118m, reflecting 244,510 new companies registered) of fees collected in 2017-18.</p>

have different tax treatment to non-companies.

<p>Late Fees for: late lodgement, late review, and late payment</p>	<p>There are three types of late fees: late lodgement, late review and late payment fees. Attachment B explains late fees in more detail and provides examples to demonstrate the late fee process.</p> <p>Late lodgement - information needs to be lodged with ASIC within a certain timeframe, usually within 28 days of the date of change. If information is lodged outside of this time, ASIC may charge a late lodgement fee. The company is responsible for making sure the company lodges its documents on time. Information is only considered lodged when it is received and accepted by ASIC. If lodging in paper, companies need to allow enough time for postage and delivery.</p> <p>Late payment – these late fees are imposed on entities that don't pay their annual review fee within the prescribed timeframe. If fees are left outstanding ASIC can take action to deregister the company.</p> <p>Late review fees - companies must lodge information changes with ASIC within 28 days of the annual statement issue date, or a further late fee will apply.</p>	<p>Late Payment Fee:</p> <ul style="list-style-type: none"> • Annual review fee received less than one month late - \$79 • Annual review fee received more than one month late - \$329 <p>Late Lodgement Fee:</p> <ul style="list-style-type: none"> • Change of company details notified less than one month late - \$79 • Change to company details notified more than one month late - \$329 <p>Late review fee</p> <ul style="list-style-type: none"> • Failure to notify a change with received less than one month late - \$79 • Annual review fee received more than one month late - \$329 	<p>Late fees comprised 13 per cent (\$118m) of fees collected in 2017-18.</p>
<p>Business Name Registration and Renewal</p>	<p>A Business Name is a name or title under which a person or entity conducts a business. It allows a business to differentiate themselves from competitors and to operate using a name that is</p>	<p>The fee for registering and renewing a business name is:</p> <ul style="list-style-type: none"> - \$36 for one year, or 	<p>Business Names fees comprised about 6 per cent (\$51m) of total fees collected in 2017-18. This amount is split almost evenly between new business name registrations and renewal of existing</p>

	other than their own.	- \$84 for 3 years.	business names.
Search	<p>Fees are charged to access certain kinds of data held on the registers.</p> <p>Over 95 per cent of searches do not incur a fee. However, ASIC is legally obliged to charge fees for some products. See Attachment C for a full outline.</p>	<p>The cost per search varies depending on documents obtained. Fees range from \$9 to \$43.</p>	<p>Search fees accounted for 7 per cent (\$64m) of fee collections in 2017-18. The vast majority (86 per cent in 2017-18) of these searches are conducted through information brokers.</p>
Infrastructure	<p>The MBR Program commenced consultation in July 2018 on the application of the Charging Framework to the services being provided when users access real-time data on the business registers via, for example, modern Application Programming Interfaces (APIs) or similar technology. No decision on the application of the Charging Framework has been made at this time.</p>	\$0	\$0

Why does Government charge fees?

Data held on the Government registers is important to the Australian economy. The data informs the community and the Government about the identity of the natural persons responsible for the conduct of Australian companies and businesses they are dealing with. A wide range of industries rely on the data held on the registers when making decisions about counterparties that they may wish to interact with.

Governments also rely on the data to inform policy decision-making and to allow regulators, such as ASIC, to undertake regulatory activities. The ongoing accuracy of the data is therefore important.

Annual review fees

Prior to the Corporate Law Economic Reform Program changes, companies were required to lodge an annual return with a lodgement fee. After the annual return was abolished, the updated regime included an annual review fee.

Entities across the economy utilise registry data for a range of activities and rely on the register as the 'source of truth' for companies and regulated professionals. Charging a fee incentivises companies and other entities to keep their data up-to-date. Coupling the annual review with a fee requires the regulated entity to transact with ASIC each year and consider their ongoing solvency. This interaction helps to keep the data held on entities accurate and provides the community with confidence that those entities that remain on the registers are considering their solvency.

Entities benefit from the accuracy of registry data as they are able to interact confidently within a market where other businesses they are dealing with have been verified. For example, banks and other credit providers utilise registry data as part of the basis of their credit assessment of potential customers. Credit providers bundle credit score information based on Registry data with other products.

The registers thus provide a source of trusted information so that identity and solvency does not need to be proven in every transaction. The registry information provides an economy-wide verification process that is efficient in aggregate for individual businesses, helping businesses focus on their core functions.

When no charge is imposed, reviewing registry user input may be less likely. This may lead to incorrect or inaccurate data held on the registers. For example, the 2018 Black Economy Taskforce Report highlighted that, despite a requirement to maintain the accuracy of ABN data, taxpayers consider the ABN to be a 'set and forget' identifier and do not formally review their data to keep it up-to-date. The lack of formal review can create doubt about the authenticity of the entities and their attributes on the registers.

Registration fees

Registration fees are payable upon application for a company. This fee reflects the benefits of creating a separate legal entity. It also provides a barrier for entry that reduces frivolous applications.

Late fees

The charging of late payment, late review and late lodgement fees encourages timely payment, as well as the review and lodgement of documents. Late fees act as a penalty that can apply if a representative of a company does not update its details. Penalties exist as incentives for registry users to comply with their obligations.

Search fees

Search fees were developed to cater for a registry system that was based on providing documents or copies of documents on request. The fees were set at a time when most services were paper and counter based to approximate the cost incurred by the Government to retrieve the documents and provide them to the applicant.

The Government has announced that as of 1 July 2019 it will reduce the existing search fees of \$40 to \$19 to reduce the burden on individuals and businesses that need to access company roles and relationship extracts from the online registries.

There are also a range of exemptions or concessions with respect to search fees. For example, from 1 July 2019 journalists will not be charged to search the ASIC registers. Government agencies, research institutions and academics are all currently charged to access information from the ASIC registers.

In addition, there is inconsistent practice across other Commonwealth agencies with respect to charging search fees for government registry data. For example, the Australian Financial Security Authority charges search fees, whereas the Australian Business Register does not.

What will be different in the modernised system?

The Modernising Business Registers Program is expected to deliver an improved client experience across several aspects of business registers. During the consultation and design process, the Modernising Business Registers (MBR) program has identified possible new enhancements that new technology could deliver. Any changes to fees will need to take into consideration the modernised technological environment and the expected timing of the modernised registers.

It is expected that the modernised system will provide digital services that make it easier and faster for businesses to manage their registrations and meet ongoing regulatory obligations, which would in turn improve registry data accuracy.

It is expected that combining the registers could provide a source of truth for business data, which can be used to support government functions (such as regulatory functions and grant administration), inform economic policy and better target support for business.

Combining the registers would also consolidate search for all business registry information. It could provide an increase in contemporary search capabilities to facilitate greater use and innovation by offering consolidated, modern APIs⁶ to access register data. This could provide opportunities for third parties, including software developers and information brokers to create enhanced service offerings.

⁶ The new registry platform will provide API access to both input and extract data from the registry. An API is a set of programming instructions and standards that translates raw computer code data into usable information. An API is a software-to-software interface; it is not a user interface.

What options are available to improve fees in the new system?

Reconsidering the registry fee mix is important for the Modernising Business Registers Program to effectively foster more data-driven innovative business models and provide an improved user experience. The Government has not made a decision on the composition of the fee environment and your views will be valuable for the Government's development of the modernised registry platform.

Options for reform could include:

- reforming registration and review fees;
- simplifying late fees;
- simplifying or removing search fees for digital interactions; and
- introducing an infrastructure fee for users of the modernised registry services;

Reforming review fees to better account for entity size

One option to be considered is reforming the annual review fees that are currently charged to different entities.

Charging different fees for large and small businesses could increase equity in the registry fee regime. One dimension of equity that can justify changing the annual review fee is that larger entities generally have better scale and financial capacity to pay Government fees. Minimising the costs to small businesses provides opportunities for business growth and encourages entrepreneurship. Larger businesses have the scale and capacity to efficiently process these responsibilities and fees, creating an inequity in the real cost of the annual review fee.

Another dimension of equity that justifies changing the annual review fee to account for entity size could also be considered. In general, larger entities gain the most benefit from the efficiencies provided by the verification process of the annual review. This is because larger entities engage in a higher number of transactions and therefore derive a greater benefit from the trusted information sourced from the registry. This principle suggests larger entities should pay more for this benefit, which could be captured in a higher annual review fee relative to smaller entities.

As outlined earlier, annual review fees are set based on the type of company. The current model differentiates annual review fees based on whether a company is proprietary, public or special purpose. One option being considered is to reform the annual review fee so that smaller companies pay a lower review fee than larger companies.

Under this option, small businesses would pay a lower annual review fee for each company type. Annual review fees for large companies could also be reduced under this model, but differentiating between small and large businesses would ease the compliance burden on small businesses.

However, creating a two-tiered system could create complexity for businesses. Businesses would have to identify if they are a small business for the purpose of registry fees. This complexity can be alleviated by using definitions of small business that are already used by regulators, including thresholds on capital, as per the current ASIC IFM for small proprietary companies⁷, or aggregated

⁷ Definition of Small proprietary companies: <https://asic.gov.au/about-asic/what-we-do/how-we-operate/asic-industry-funding/>

turnover⁸ as per tax purposes. The definition for small business would need to be set at an appropriate level to ensure the registry provides incentives for business growth.

The current registration fees are uniform for all company registrations. The vast majority of companies are small proprietary companies. As such, setting fees based on company size is not likely to be appropriate for registration fees, although options, including lowering registration fees, can be considered.

Simplifying Late Fees

Public feedback has indicated that late fees are not well understood by registry users (see Attachment A for examples of process). The modernised registry system could provide a modern notifications system (including to authorised representatives of a company) with easier interfaces to provide data to the Government. This is expected to lead to fewer late fees being imposed as clients become more aware of obligations and possible penalty implications of not meeting deadlines.

While enhanced notifications and interfaces are practical steps to reduce the incidence of late fees, options to improve the nature and processes around late fees remain. These options could ensure that late fees continue to appropriately penalise late lodgement and late payment to the Government.

One option that could be considered is replacing late payment fees with an interest charge. This could be similar to a model currently used by the ATO where if a taxpayer does not pay on time, a General Interest Charge will automatically be added to what is owed; therefore, the penalty will grow each day they remain unpaid.

Under this option, the late fee associated with being 30 days late would be unchanged. However, once the 30 days have elapsed, interest would be charged. For entities that pay shortly after the 30 days have passed, this option would lead to a lower fee being paid that would be the case under the current regime. However, this model would lead to higher fees being paid for those entities that do not pay the late fee until the interest charge is greater than the current late payment fee.

Conversely, another option that could be considered is to increase the penalty fees for late lodgement of annual review information (keeping the register up to date) and to lower fees associated with late payments of money from the annual review process. This option would encourage users to provide updated business data and reduce the penalty for delayed payments.

Limiting or removing search fees

As outlined earlier, search fees were introduced to cover the cost incurred by the Government to retrieve the documents provide them to applicants.

The cost of searching the registers has fallen over time and is expected to fall further after the move to a modernised business registry system.

Search fees are potentially inconsistent with the Government's recently implemented Open Data policy. The Open Data policy dictates that, where possible, the Government should publish data by default, while only charging for specialised data services.

Current search fees could be inhibiting access to key business data and therefore limiting possible business opportunities, innovation and economic efficiency. On this basis, reducing search fees would better align with the actual cost of providing search functions and would also be aligned to the Open Data policy.

⁸ Definition of Small business for Tax purposes: <https://www.ato.gov.au/Business/Small-business-entity-concessions/Eligibility/Definitions/>

One option that could be considered is abolishing fees for searches of publicly available *electronic* information held on the modernised business register.

Some search fees may be maintained in a modernised register as older data may continue to be stored in out of date paper-based methods. Due to the overhead of managing paper-based data, search fees could be maintained on a small range of activities that cannot be provided through an automated data process.

Introducing an Infrastructure Fee

As outlined in the Modernising Business Registers Program consultation paper in June 2018, an infrastructure fee is being considered as a charge on the use of an API or comparable technology. This fee recognises that additional benefits are available to this group of users relative to those using retail channels, such as portals accessible through a government website. It is also being considered as a way to sustainably fund the ongoing operation of the registry infrastructure into the future.

An infrastructure fee could be imposed on API users who on-sell data or make a financial gain from accessing data stored on the register. For example, the fee could be imposed on an API user who uses software which searches the data on the registers. These searches could be to verify information in accounting software or for on-selling data to third parties. This would be an efficient way of charging heavy users of registry data who gain a benefit from accessing registry data by providing value-add services to other businesses.

Funds raised from the fee could be set aside to cover the cost of future system upgrades to take account of technological developments and user demands. By introducing an infrastructure fee, other enhanced infrastructure could concurrently be introduced, such as registry upgrades, a testing environment to improve system integration, or a sandbox to encourage testing of innovative products.

An infrastructure fee could be structured based on the existing Department of Home Affairs Document Verification System model (DVS - see Attachment D), and comprise:

- A one-off entry fee, which is set at a level that recoups some or most of the costs of establishing the new data structure and APIs⁹; and
- A transaction fee, where the rate per transaction falls as the number of transactions increases, which is set at a level which covers maintenance costs, enhancements, governance/reporting, and generates a fund for future upgrades.

Other options raised during initial consultation in July 2018 were to have data-usage based fees such as those that currently apply to phone or internet data plans.

Further information on the proposed infrastructure fee can be found at Attachment E.

⁹ This fee could also be staggered over several years, for example over the period between upgrades, both so that it is affordable for the entity paying it and so that it can be reset based on the actual cost of the upgrade.

Questions:

1. Do you agree that the principles of making fees simpler, easier to understand and more equitable are the best guide to review registry fees? Should any other principles be considered?

Reforming registration and review fees

2. How could the registration and annual review system be reformed to make it simpler and more equitable?
3. Do you support the introduction of differentiated rates of annual review fees between small and large businesses?
 - 3.1 If yes, what definition of small business do you support and how should the notification of small business status occur?

Simplifying late fees

4. How could the late fee system be reformed to incentivise compliance and make the system simpler and more equitable?
5. Do you support the introduction of interest on late payments rather than the late payment fee?
 - 5.1 If yes, what interest rate should be charged and when should it be applied?
6. Do you support lowering late payment fees but increasing late lodgement fees, or eliminating late review fees?
 - 6.1 If yes, by how much should the fees change?

Simplifying or removing search fees for digital interactions

7. How could search fees be reformed to make data more accessible, the system simpler and more equitable?

An infrastructure fee for users of the modernised register services

8. Should an infrastructure fee be introduced if it is payable by users of an API or comparable technology?
9. Should funds raised from an infrastructure fee be set aside to cover the costs of upgrading the registry and/or a testing environment?
10. Is the Document Verification Service charging model appropriate, or is there an alternative model that should be considered?

Timing

This consultation will feed into the Modernising Business Registers Program business case for Government consideration in 2019.

Any changes to the current fee regime will take into account the state of the ASIC mainframe, and will be delivered over the longer term as part of the Modernising Business Registers Program.

Other reforms, such as to the Australian Business Number system, introducing director identification numbers, reducing phoenixing activity, implementing a digital identity framework, will all contribute to a more effective business environment.

This consultation paper does not seek to duplicate consultations or work underway on these related reforms. However, where answering questions in this consultation paper requires referencing these reforms, we welcome views outlining the relevant interactions.

ATTACHMENT A

Government Charging Framework

Extract from Australian Government Treasury Consultation Paper “Modernising Business Registers Program”, July 2018, Attachment C: 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.¹⁰

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 MBR 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.

Excerpt from Charging Framework

Paragraph 22 of the Charging Framework provides more information on these Principles. It states: “The Charging Framework is underpinned by six principles:

- transparency – making available key information about the activity, such as the authority to charge, charging rates, and, where relevant, the basis of the charges;

¹⁰ <https://www.finance.gov.au/resource-management/charging-framework/>

- efficiency – delivering activities at least cost, while achieving the policy objectives and meeting the legislative requirements of the Australian Government;
- performance – which relates to effectiveness, risk mitigation, sustainability and responsiveness. Engagement with stakeholders is a key element of managing and achieving performance. Entities must regularly review and evaluate charges in consultation with stakeholders to assess their impact and whether they are contributing to government outcomes;
- equity – where specific demand for a government activity is created by identifiable individuals or groups they should be charged for it, unless the Government has decided to fund that activity. Equity is also achieved through the Government’s social safety net, to ensure that vulnerable citizens are not further disadvantaged through the imposition of a charge;
- simplicity – whereby charges should be straightforward, practical, easy to understand and collect; and
- policy consistency – charges must be consistent with Australian Government priorities and policies, including entity purpose and outcomes. Australian Government agreement may be required for the introduction of new charges and/or changes to charges.”

ATTACHMENT B

Late Fee Scenarios

The following table explains late fees and provides examples that demonstrate the complexity of the late fee system.

Common fees imposed	Fee Type	Scenario	Possible customer response
	Late Payment Fee: <ul style="list-style-type: none"> Annual review fee received less than one month late - \$79 Annual review fee received more than one month late - \$329 	<ul style="list-style-type: none"> Company's annual review is due Annual Statement and invoice is sent online to Company's registered agent Registered agent fails to download the statement and invoice and/or forward to it the Company Payment deadline passes and company incurs first late fee of \$79, which is sent to registered agent Registered agent forwards to invoice company Company first becomes aware of outstanding review and late payment fee when it receives invoices. 	<ul style="list-style-type: none"> Enquiry to ASIC Fee Waiver application lodged Complaint lodged online with ASIC Complaint lodged with Commonwealth Ombudsman or local MP Pays review fee but never pays late fee
	Late Lodgement Fee: <ul style="list-style-type: none"> Change of company details notified less than one month late - \$79 Change to company details notified more than one month late - \$329 	<ul style="list-style-type: none"> Company has appointed a new director and wants to notify ASIC but does not have online account with ASIC (can only notify in paper in exceptional circumstances) Officeholder attempts to set up an online account but does not have the Company's Corporate Key to do so Calls ASIC to get a corporate key but, for security purposes, it is only sent in paper to an address on record for the company Corporate Key is received in mail 10 days later Officeholder again attempts to set up an online account with Corporate Key, but experiences system issues 	As above

More complex fees

	<ul style="list-style-type: none"> • Calls ASIC and is advised to change browser • Officeholder lodges change to company details online but is now 5 days late and incurs \$79 late fee for failing to lodge within 28 days from date of change. 	
<p>Late review fee</p> <ul style="list-style-type: none"> • Failure to notify a change with received less than one month late - \$79 • Annual review fee received more than one month late - \$329 	<ul style="list-style-type: none"> • Company's annual review date occurs on 1 February 2018 • A new agent is appointed for Company on 1 April 2018. • New agent undertakes a data download and discovers old agent failed to update ASIC as register reflects very old officeholders • New agent notifies ASIC of new officeholder, with effective date of change, 1 June 2016 • Company incurs late fees: <ul style="list-style-type: none"> ○ \$329 late lodgement fee, plus ○ \$658 late review fee (2017 and 2018) 	<ul style="list-style-type: none"> • As above • Lodge a form to amend date of change • To avoid incurring late fees altogether, enter an incorrect change date when notifying ASIC so that it appears the change occurred within 28 days
<p>Application to voluntarily deregister a company-\$40.</p>	<ul style="list-style-type: none"> • Company posts a Form 6010 online (<i>application to voluntarily deregister a company</i>) to ASIC on 1 March 2018 	<ul style="list-style-type: none"> • Company pays the 2018 review fee, lodges another Form 6010 with \$40 application fee.
<p>When a company lodges an application to voluntarily deregister, once approved, a notice is published on ASIC's website of the intended deregistration. If the notice is published before the review fee is due, a company does not have to pay the fee. For example: if a company's annual review fee is due on 1 June and the notice is published on 30 May, the review fee does not need to be paid.</p>	<ul style="list-style-type: none"> • ASIC receives Form 6010 on 8 March 2018 • Company's annual review date is 10 March 2018 • Form is processed on 11 March 2018 but is refused as Company's annual review fee is due and payable. • A refusal notice is sent to the company, advising that the company has outstanding fees. 	<ul style="list-style-type: none"> • Enquiry to ASIC • Fee waiver application lodged • Complaint to ASIC • Does nothing – ASIC will initiate action to deregister the company for failure to pay the review fee in full 12 months after the due date (s601AB of the <i>Corporations Act 2001</i>)

Attachment C

ASIC Search Fee Schedule

Search fees are charged by ASIC to show the cost of accessing the Registry. ASIC is legally obliged under the *Corporations Act 2001* to charge fees for some products. The list of products below shows the fee applied for each.

Company and Organisation searches

Product	Price online	Price by mail
Current company extract	\$9	\$12
Current and historical company extract	\$17	\$20
Roles and relationship extract	\$40	\$43
Certificate of registration of company	\$19	\$19
Current Australian registered body extract	\$9	\$12
Current and historical Australian registered body extract	\$17	\$20
Current foreign company extract	\$9	\$12
Current and historical foreign company extract	\$17	\$20
Current managed investment scheme extract	\$9	\$12
Current and historical managed investment scheme extract	\$17	\$20

Business name searches

Product	Price online	Price by mail
Current business name extract	\$9	\$12
Current and historical business name extract	\$17	\$20
Current business name holder (person or organisation) extract	N/A	\$22
Current and historical business name holder (person or organisation) extract	N/A	\$43

Person searches (paper only)

Product	Price online	Price by mail
Current personal name extract	N/A	\$43

Current and historical personal name extract	N/A	\$43
Preliminary search report	N/A	\$12

Document searches

Product	Price online	Price by mail
Documents (less than 10 pages)	\$17	\$20
Documents (10 pages or more)	\$40	\$43
Certification of a document (additional fee)	\$19	\$19

Banned and disqualified persons

Product	Price online	Price by mail
Disqualified person extract	Free	\$12
Banned securities representative extract	N/A	\$12
Banned futures representative extract	N/A	\$12

Professional registers

Product	Price online	Price by mail
Futures broker pre-AFS	Free	\$12
Investment adviser pre-AFS	Free	\$12
Securities dealer pre-AFS	Free	\$12
Futures representative pre-AFS	Free	\$12
Securities representative pre-AFS	Free	\$12
Current disqualified person extract	N/A	\$12
Current AFS licensee extract	Free	\$12
Current AFS representative extract	Free	\$12
Current credit registered person extract	Free	\$12
Current credit representative extract	Free	\$12
Current credit licensee extract	Free	\$12
Current registered liquidator extract	Free	\$12
Current official liquidator extract	N/A	\$12

ATTACHMENT D

Example of “Large User” fee: Document Verification Service

The Document Verification Service (DVS) provided by the Department of Home Affairs is a national online system that allows organisations to compare a customer's identifying information with a government record. It is a secure system that operates 24/7 and matches key details contained on Australian-issued identifying credentials, providing a 'yes' or 'no' answer within seconds.

Gateway Service Providers

Businesses which establish a direct ICT connection to the DVS act as Gateway Service Providers (GSPs). They may be accessing the DVS on their behalf as an approved Business User, or in order to provide services to other Users. GSPs are charged \$50,000 to link their systems to the DVS Hub infrastructure via Web Services, including test and 'sandpit' environments, testing processes and migration into the production environment. The connection fee includes an amount payable to current IT service providers together with the Department of Home Affairs' internal costs. GSPs are invoiced half of the connection fee on approval of their application and the remainder once a production certificate has been issued to them.

Transaction Fees

Transaction fees are payable by the party connecting directly to the DVS (i.e. GSPs). GSPs are invoiced monthly and where annual transaction volumes (calculated from the monthly equivalent) are less than 800,000 a fee of \$0.80 on each transaction is charged. High volume discounts of \$0.50 and \$0.40 per transaction apply once the GSP has been invoiced for one million transactions and eight million transactions within the applicable year.

Annual Volume	Per query charge
<800,000	\$0.80
>800,000<1,000,000	\$0.60
>1,000,001	\$0.50
>8,000,001	\$0.40

Source: Department of Home Affairs website, DVS tab: <https://www.dvs.gov.au/users/Pages/Gateway-Service-Providers.aspx>

ATTACHMENT E

Background on a proposed Infrastructure fee

Direct access to the ASIC Registry is increasingly valuable to commercial ventures, which provide services to clients who interact with ASIC or access the data to provide verification or other products and services to themselves or clients. Currently, there is no distinction drawn between the fees paid by large commercial searchers of the ASIC Registry, and those who search the database infrequently to verify their own or another's business status.

The introduction of an infrastructure fee for large data users through an API or comparable technology in the future could be constructed so that it transparently provides a source for funding future system upgrades to take account of technological developments and user demands, in a way that the existing fee structure does not. It could also fund a testing environment to improve system integration and a sandbox to encourage testing of innovative products. Properly constructed it would be a more equitable and efficient way of charging users of the data contained in the registers than the current system of search fees.

Users of the data in the ASIC registers can be classified into:

- a) Users for a public purpose: this category includes Government agencies at all levels of Government, as well as academics and journalists. Presently there are a range of exemptions and concessional fees that apply to these users, and some pay full search fees¹¹. Currently many Government agencies use direct machine-to-machine channels or use the MASCOT service, which provides them with a copy of the dataset, including some confidential information held on the registers. It is anticipated that these entities will continue to use large volume channels, either in their own right or through another provider, to access the data they require. Most of these users require or prefer real-time access to data.
- b) Large users for commercial purposes: this category comprises large users whose business model revolves around compiling and analysing data stored on the registers about individuals and corporates and on-selling information products, such as credit reporting bureaux and information brokers. It also includes users who need to undertake a large volume of searches for their own business, such as banks. Users in this category are currently charged search fees and pass that cost on to their clients. These users require real-time access to data as they have a customer base to whom they can pass on the cost. Some of these users also require access to historical data, such as previous addresses, to assist them to establish and assure identity.
- c) Small users for commercial or personal purposes: this category covers businesses, professional service providers (lawyers and accountants) and individuals who seek and use the data to verify identities and transactions. Users in this category usually access the data through information brokers.

Large users (those in a. and b. above) create the need for better infrastructure to access the data efficiently, and for the data to be structured in such a way that it can be integrated across multiple registers to provide a more holistic view of the data. While the users in category a. contribute to this need for the infrastructure, a number of these users have longstanding exemptions or concessional arrangements for access to the data, based on the argument that reduced or no cost access is

¹¹ On 30 July 2018 the Government announced that it would extend an exemption from search fees to all journalists conducting searches for journalistic purposes: see <http://kmo.ministers.treasury.gov.au/media-release/091-2018>.

justified by the public purpose for which the access is needed. It could be proposed that these users should not be charged a fee to use the APIs on the same basis.

Large commercial users (those in category b. above) have a commercial incentive to seek to reduce the infrastructure cost of accessing and analysing the data. Large commercial users could readily be identified as those using a unique API to access registry data.

Small users (those in category c. above) do not have as significant an incentive to use an API to access the data, provided they can access real-time data at a reasonable price through a large user or can meet their need by accessing non real-time data through channels such as data.gov.au. However, if they chose to use an API to access real-time data, there could be justification in charging them on the same basis as a large user.

There is also a category of potential users that aspire to become a large user for commercial purposes but need to test a new business model or product innovation before they become viable. This category is important to promote competition and innovation, as full access to and use of APIs is likely to involve significant upfront costs. These users could be accommodated by providing them with access to a testing environment or sandbox.

We expect that Government agencies will not be charged to access registry data in keeping with the Government's Open Data Policy and given other platforms in the Digital Transformation Agenda such as Tell Us Once will rely on access to this data.

Proposed Infrastructure Fee

In order to be consistent with the Charging Framework, the infrastructure fee could be set at a level which covers the cost of:

- structuring the data so that it can be efficiently accessed;
- establishing and maintaining access to the data, through an API or comparable technology;
- developing and maintaining an end-to-end testing environment, to enable users to integrate the data into their systems efficiently and to manage enhancements and upgrades over time, and to provide a sandbox for potential users to test new business models or product innovations; and
- desirably, establishing and maintaining a governance and reporting process to enable users to be consulted and participate in decisions about enhancements and upgrades to the overall system.