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Data Economy Unit
Market Conduct Division
The Treasury
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PARKES ACT 2600

via email: mbcomms@treasury.com.au

Dear Sir/Madam

Consultation paper on Modernising Business Communications

Chartered Accountants Australia and New Zealand and CPA Australia (together 'the Major Accounting Bodies') welcome the opportunity to respond to Treasury's consultation paper on Modernising Business Communications ('the Paper'). Together, we represent over 280,000 professional accountants in Australia, New Zealand and around the world.

The Major Accounting Bodies support the technology neutrality of Treasury portfolio laws. We see this as a major step towards simplifying regulatory obligations and modernising communication with and across government for individuals and businesses.

Key Points

- As 98 per cent of Australian business are small and medium enterprises (SME), and it is recognised that many do not have the digital skills and capacity to fully benefit from this and other digital initiatives, consideration must be given to significantly increasing the funding of projects that enhance the digital capability of these SMEs.
- Any changes aimed at modernising business communications should be carefully considered, widely communicated, and supported with resources, training, and awareness within the business community.
- We recommend Treasury undertakes appropriate steps to make digital financial reporting standard practice as this could enable users of financial reports to access information more effectively and efficiently.
- It is important that intermediaries are front of mind for Treasury and government agencies when modernising business communications. Intermediaries such as accountants, bookkeepers and lawyers are fundamental to business compliance with many Treasury portfolio laws. By way of example, according to the ATO, 95 per cent of businesses lodge their tax returns through a tax agent.

The following appendix provides our general comments on the Paper, as well as responses to specific questions.

If you have any questions about our submission, please contact Karen McWilliams (CA ANZ) at karen.mcwilliams@charteredaccountantsanz.com or Gavan Ord (CPA Australia) at gavan.ord@cpaaustralia.com.au.



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Appendix

General comments

It is important that laws are modernised to allow for current and future technologies. In doing so, important considerations must include:

- data security
- data retention
- privacy
- identity verification
- communication preferencing
- the ageing population and those without access to digital solutions (e.g. in remote locations) and the ability and willingness of some to be able to engage with new technologies and new ways of working.

The COVID-19 pandemic has seen businesses and entire industries shift to remote activities. The quick adoption of temporary relief measures, such as allowing annual general meetings to be held virtually and electronic document execution shows that Australian businesses generally have the desire to modernise the manner in which they comply with laws and interact with government.

However, we observed that SMEs found such changes more challenging than their larger counterparts. This is mainly due to lower levels of digital literacy and limited financial and human resources. We strongly recommend that current government programs designed to support small business digital adoption be significantly expanded and, where gaps are identified, new programs added.

We also strongly suggest that frequent and wide-reaching consultation be maintained during implementation to ensure changes are broadly communicated and supported with resources, training and awareness raising amongst the community. Such consultation should include a cost benefit analysis, what support may be needed to help businesses and any potential unintended consequences.

Leadership and cross collaboration in government

The Australian Treasury has the opportunity to lead by example in modernising business communications through cross-collaboration with other departments and leveraging existing developments in areas such as Single Touch Payroll reporting, digital identity (MyGovID), e-invoicing, open banking and modernising business registers. Currently, businesses need to use a variety of different platforms to communicate with Government agencies. This is not only onerous for users and digital service providers, but it is also costly.

We suggest that Government considers the interoperability of different platforms, systems and software when modernising business communications. Concerns over cyber security and data sharing and storage (including timeframes for storage) will also have to be taken into consideration. These considerations could reduce red tape by improving current regulatory and

reporting systems, provide a solid foundation for the management and protection of data and improve communication between government, individuals, and businesses.

Further, we note that the Australian Bureau of Statistics (ABS) is currently undertaking a project to streamline reporting and data collection of the quarterly business indicators survey. The project is considering the interoperability of business software with information required for the survey.

Although it appears to be outside of scope of this paper, modernising business communications may offer the opportunity for the Government to reduce red tape through the alignment of common definitions used across various government departments. For example, in its [pre-budget submission](#), CA ANZ urges the government to continue its work on creating a more uniform, whole of government approach to small business definitions.

Digital communications and intermediaries

As many government services develop digital communication processes, the role and user experience of intermediaries must be incorporated into the design. Many businesses rely on their advisors to receive notices, satisfy reporting obligations and manage their affairs.

By way of example, the ATO has been enhancing its digital delivery of services for some time with ongoing consultation and input from stakeholders, including tax intermediaries. With 95 per cent of small businesses using a tax agent to lodge their tax return, the flow of information through intermediaries is a critical component of digital delivery design. The ATO's communication preferencing [list](#) of 83 documents reflects the significant volume of communication between the ATO and its clients that is managed by tax intermediaries.

As changes in the delivery of notices have been made, the intermediary experience has at times been negatively impacted due to unexpected or poorly understood alterations, often the result of poor consultation with the sector. This includes rules such as defaulting to digital communication after any form is lodged electronically with the ATO or not issuing notifications to intermediaries when a digital communication is sent to a taxpayer. Such communication breakdowns have led to missed notices, late payments, penalties and lost productivity.

Such experiences highlight the importance of intermediaries being included in ongoing consultation and user testing, to ensure that systems are designed to support how business want to interact with government (including through their intermediaries).

A structured change program that educates and empowers intermediaries to set preferences and manage communications on behalf of their clients will minimise the risk of negative events and ensure that businesses receive the right information at the right time in the manner in which they expect.

Registers and portals

The high cost of searching the ASIC Registry has previously been raised by us in our responses to several projects including the Modernising Business Registers program.

We recommend that searches of the ASIC Registry should be at no cost. The Australian Government's [Public Data Policy Statement](#) commits Commonwealth Government entities to make non-sensitive data open by default. There is a further commitment within the Policy Statement to only charge for specialised data services.

We believe that the free availability of the ASIC Registry can have many benefits including:

- Improving the probability of business success. Ready and free access to ASIC registry data should assist businesses make more informed decisions on who they should interact with.
- Reducing the risk of phoenix and other similar activity.
- Assisting business meet certain regulatory obligations. For example, undertaking customer due diligence under Anti Money Laundering legislation.
- Allowing for a deeper understanding of Australian businesses and the economy through macro-level research and analysis of such data.

Recent reforms to the insolvency framework facilitate electronic communications and virtual meetings yet access to key information to facilitate the same remains expensive. Insolvency practitioners, who must investigate the history of a corporation, its directors and find any related entity, have no choice but to spend substantial amounts of the funds due to creditors searching ASIC registers.

Currently companies and insolvency practitioners pay to retrieve information held electronically on ASIC registers, despite also paying to lodge the forms that provide this information to ASIC. As noted above, we recommend making a search of ASIC registers free of charge.

Digital financial reporting

Digital technologies have facilitated an exponential increase in the availability and consumption of information and data in recent times. However, Australian financial reporting remains reliant on legacy platforms that require lodgment of word or pdf documents. This makes it a challenging and lengthy process to retrieve data for analysis, for both internal and external users of financial information. Globally, both developed and developing economies are increasingly adopting digital financial reporting and permit entities to lodge financial information in digital formats.

Standard Business Reporting (SBR), which was introduced by the Government in 2010, aims to simplify business reporting obligations. Digital financial reporting, which forms part of SBR, is voluntary in Australia with a very limited uptake by companies. Companies that do lodge digital financial statements in Australia are typically those that are required to lodge under other international requirements. For example, Australian companies that are dual listed in the US prepare XBRL-tagged financial statements to lodge with the US Securities and Exchange Commission.

Among many benefits of digital financial reporting, the more pertinent ones are:

- automating regulatory filings
- facilitating business information processing
- cost reduction for users of financial reports as they are able to navigate and extract information from financial reports more efficiently
- enabling sector level analysis.

The Parliamentary Joint Committee (PJC) on Corporations and Financial Services, when examining the regulation of audit in Australia recommended that the Australian Government take action to make digital financial reporting standard practice in Australia ([see recommendation 10](#)). We support this important recommendation and urge Treasury to incorporate this PJC recommendation into these reforms.

The benefits and potential of digital reporting are captured in CA ANZ's report on [The Future of Financial Reporting](#).

Technical committee and roundtables

We recommend the Government form a technical committee of experts, including representatives of government, industry, academia and intermediaries (such as accountants and lawyers) to oversee and track modernisation efforts.

Consultation questions

1. Do the business communication requirements in Treasury laws create a burden on business?

Yes, where legislation requires written notice, records and non-electronic forms to be used with physical signature approval. This adds time, cost and inconvenience for business and their representatives. Improving the way businesses and their representatives interact with government should reduce regulatory burden.

There are many laws that require updating to allow for sufficient flexibility in communication. For example, section 18(3) of the *Superannuation Industry (Supervision) Act 1993 – SIS Act* - requires APRA to be informed of an election being made by written notice that is: (a) in the approved form; and (b) signed by the trustee. Within this legislation there is no indication that this notice can be carried out or signed electronically.

Appendix 2 to this document (separate attachment) contains a full summary of the SIS Act and its regulations about the different methods of communicating and whether or not an approved form must be used. It is clear that there is a significant amount of inconsistency in this one piece of Commonwealth legislation and related subsidiary legislation.

2. What is the cost of complying with the current regulations? Please provide a breakdown of costs and an indication of the frequency at which these communications occur.

a. Would these costs be reduced if the law was technology neutral? Please provide a breakdown of any anticipated savings and any non-monetary benefits.

Comments received from our members and other stakeholders indicate that the cost of implementing digital communication solutions, such as e-signatures and accompanying compliance costs, can be high, especially for smaller businesses. The identification of

suitable digital solutions and the integration of those into existing systems will be the most cost-effective pathway.

Additional government support for SMEs will be required to offset extra ongoing costs such as training staff and clients on how to properly use such digital communications tools. These higher costs are a major issue hampering the uptake of e-signature solutions, especially amongst SMEs.

3. Do you agree with the categories of communication outlined in the consultation paper?

a. Are there other types of business communication that should be considered?

All business communication between regulators, intermediaries and business should be considered over time.

b. Do you agree with the proposed principles outlined in the consultation paper or are there additional or alternative principles that should be considered?

See our responses to other questions.

c. What, if any, barriers would restrict implementation of the proposed principles?

See our responses to other questions.

4. How could stakeholders (such as consumers and investors) benefit or be disadvantaged from greater technology neutrality in Treasury laws? Please provide any relevant data, if available.

The transition towards digital practices creates risks that can be exploited by mischievous actors. That is not a particularly new phenomenon. However, in the digital realm it appears any exploitation may have wider ramifications than in the physical realm.

As noted in our response to Question 2, implementation of new technologies to meet any improvements will come at a cost, particularly for SMEs. Moreover, as outlined earlier, different digital solutions employed by different regulators would create further burden and cost for businesses.

5. Which of the options identified on page 3 do you consider would provide the biggest benefits while appropriately managing risk?

We support option II:

“Agreeing principles in one or more forms of communication to guide legislative change.

The Government will then:

- a) *identify and prioritise the changes to provisions in Treasury portfolio legislation required to give effect to these principles.*
- b) *Reduce or remove exemptions to the Electronic Transactions Act 1999 for Treasury portfolio laws creating burden through a lack of technology neutrality”.*

Agreement of principles could result in the change that is needed to remove unnecessary regulatory burden for business and individuals. It could also provide an opportunity to remove subjectivity by aligning definitions as well as allowing for greater flexibility for businesses to meet their regulatory obligations.

While we believe that the principles are suitable to guide change, we emphasise that a unified whole of government approach to business communication is needed. This requires regulators to adopt and employ interoperable digital platforms and solutions that are easy to use.

6. *If technology neutral reforms are introduced, what should businesses do to manage the impact of these changes, to ensure that benefits are realised and disadvantages overcome?*

We note that the question addresses businesses' initiatives to manage technological change. While businesses should play an active role in digital transformation, we believe that it should be the government's responsibility to help business, especially SMEs manage the change.

Similar to building road infrastructure, the government should build, enhance and upgrade digital infrastructure and ensure that digital communication platforms and systems are easy to use and that data and cyber security standards are easy to comply with.

Further, as discussed previously, the government has a key role to play in building and supporting the digital capability and capacity of SMEs. This is essential for business and the economy to fully benefit from these reforms.

We note that programs such as the Department of Industry, Science, Energy and Resources' Australian Small Business Advisory Services (ASBAS) provide support to only a small number of businesses.

Australia will only enjoy the full benefits of modernising business communications and other government-led digital initiatives where the digital literacy and capacity of small business is improved.

CPA Australia's [pre-budget submission](#) recommends that the government significantly increases funding to new and existing programs that assist small business improve their digital capability. Examples of such programs from other jurisdictions include:

- Singapore's [SME Go Digital program](#). This is one of several programs the Singapore Government runs to improve digital capability. This program includes spending of S\$250 million (A\$244 million) to help businesses digitise in partnership with digital platform solution providers.
- Hong Kong's HK\$1.5 billion (\$A250 million) [Digital Business Programme](#), which supports enterprises adopt IT solutions.
- Spain's [Acelera PYME](#) (SME Accelerate Plan). A €200 million (A\$315 million) program designed to incentivise Spain's SMEs to adopt new technologies.

7. What transitional issues do you foresee for businesses, consumers and regulators in moving to technology neutral communication methods?

a. What are the key implementation risks and their likelihood of occurring? How can we mitigate these risks? Please provide examples.

As noted above, it is important that the needs of older Australians, including older small business owners, and those located in remote areas, are considered as a part of transition. A one size fits all model may not be appropriate. It will be important that awareness raising, and notices are provided through channels that these groups currently use to access information.

Access to technology should also be factored as a transitional issue. Some individuals and small businesses do not have access to technology for financial reasons, while others might not have access to reliable internet connections. It will be important for government to consider options for such people and businesses.

Another transitional issue is the accessibility of legacy data after switching to new systems or upgrading existing systems. Many users still need access to historical data and would prefer to access that data through new platforms and systems rather than having to maintain two systems indefinitely. If systems are upgraded or replaced, a legacy data migration strategy is needed to avoid the loss of data and allow easy access to such data. Data migration costs could be reduced through only requiring the migration of data within the minimum record retention periods required for companies. Such data migration needs to be simple for business.

To ameliorate these and other issues, we recommend the development of a roadmap which guides business on digital transformation. This roadmap should outline what adopters can expect, the issues they are likely to face and how to overcome them. This roadmap should further emphasise the importance of cyber security and cyber resilience.