POST-COVID-19 ECONOMIC RECOVERY

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POST-COVID-19 PANDEMIC ECONOMIC RECOVERY

INTRODUCTION

The widespread economic and societal impact of the COVID-19 pandemic is unprecedented and will be felt for many years to come. The Federal Government's response in swiftly announcing and rolling out programs to support businesses and employment was appropriate due to the significant economic effects of the pandemic.

The focus needs to now be on how the Government is going to support business, and economic recovery and jobs. Importantly, we must take the opportunity to reflect on what lessons can be learnt from the last few months.

The response to the pandemic caused significant disruption to business in a short period of time. Businesses were forced to operate differently, scrambling to transition to an online environment with staff working from home, or forced to shut down altogether. Federal and state governments were required to quickly provide temporary regulatory relief to remove barriers to enable companies to meet their legal and regulatory obligations.

The opportunity exists for many businesses to reboot and permanently change the way they operate. We expect technology to be key. How does the Government support business in discarding inefficient, ineffective ways, rebuild and reinvent for growth? Indeed, there are opportunities for the Government to do the same.

CPA Australia supports a policy focus on business recovery and reinvention. This requires giving businesses the space, time and resources to seek professional advice and undertake business recovery planning. We believe that policies need to be accessible and easily implemented, with no unnecessary compliance costs incurred by business and their advisors.

Economic policy decisions should take advantage of the currently low cost of debt and should not be driven by shorter-term budgetary considerations. With record-low interest rates, we need to keep the cost of servicing debt in perspective. Government debt should not be a handbrake on economic recovery.

We are looking to the National Cabinet to operate effectively, to develop coordinated solutions and to take a holistic approach to policy development rather than looking at measures, such as JobKeeper, in isolation. There are also emerging challenges, such as political tensions between Australia and China beginning to impact trade, which pose potential further threats to certain sectors or businesses, and these challenges need to be considered.

GUIDING PRINCIPLES

A number of principles should be considered when developing policy responses to support business recovery and economic growth. These are:

- Recovery and growth need to be environmentally sustainable
- A global focus needs to be maintained. Protectionism should be avoided
- Recovery and growth need to be effectively funded
- Stimulus and support measures should be sector neutral and targeted at viable businesses
- Policy development should be holistic. Measures should not be considered in isolation
- Stimulus and support measures should be withdrawn in an orderly and tapered manner
- Policies should assist the winding up of unviable businesses in an orderly fashion
- Measures need to be efficient, effective and sustainable
- Certainty is required in the implementation, operation and timeframes of measures.

Importantly, a framework should be developed for responding to future shocks when government and/or the economy cannot operate as normal due to crisis, and which provides appropriate governance, decision making, and parliamentary oversight of government and regulatory responses.

RECOMMENDATIONS

CPA Australia provides a number of insights and recommendations for supporting business and economic recovery and growth. These are grouped around sustainability, effective funding and savings, supporting digital transformation of business and building for the future.

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INSIGHTS AND RECOMMENDATIONS

CPA Australia provides a number of insights and recommendations for supporting business and economic recovery and growth. These are grouped around sustainability, effective funding and savings, supporting digital transformation of business and building for the future.

A sustainable recovery and building for the future

- Economic policy decisions should take advantage of the currently low cost of debt and should not be driven by shorter-term budgetary considerations.
- A structured insolvency process is required from September to manage the end of many businesses and support businesses that can recover.
- Existing COVID-19 measures should be tapered from September, balancing the need to support businesses that are viable in the longer-term against the limited benefit in sustaining businesses that have little or no chance of recovery.
- Recovery policies should encourage consumption and investment, as well as government spending initiatives.
- Stimulus measures that support household incomes should be withdrawn in an orderly, tapered manner as consumer confidence and household spending is critical to restoring GDP growth.
- A focus on youth unemployment is critical, and programs which promote apprenticeships and workforce engagement should be developed.

Certainty in recovery

- The JobKeeper program should not be changed before its scheduled September 2020 end date.
- Any modifications of JobKeeper, especially changes to eligibility or turnover tests, should only occur from September, with changes being announced well in advance.

An environmentally sustainable future

- Consideration of climate change policy must be a core principle in post-COVID-19 economic recovery policy.
- A pro-growth post-pandemic rebuild should not come at the expense of Environmental, Social and Governance (ESG) issues broadly or delay effective climate change action.
- The Climate Change Authority (CCA) March 2020 report *Prospering in a low-emission world: An updated toolkit for Australia* to Government should be used as a key policy resource in guiding Australia's post-pandemic economic transitioning.

An effectively funded future – tax reform and government expenditure

- Tax reforms should seek to encourage business investment and economic growth, as well as support consumer spending in order to restore GDP growth.
- Government should focus on expenditure and seek efficiencies and productivity gains within its operations, rather than increasing the tax burden.
- Legislated personal income tax cuts could be brought forward and further progress should be made on reducing Australia's uncompetitive company tax rate.
- Inefficient taxes such as stamp duty could be targeted as part of a broader review of the Federal and State revenue sources with consideration given to broadening the GST base and/or increasing the rate.

Savings of the future – retirement system certainty

- A rigorous definition of retirement is required to ensure the retirement income system is properly equipped to support retirement and is only accessed in the future for purposes consistent with the definition.
- Additional measures should be implemented to encourage Australians to top up their superannuation, including:
  - Limited relief in the form of higher contribution limits for Australians who have accessed their superannuation to ensure that they are able to accelerate topping up their superannuation
  - A co-contribution scheme for affected members to ensure that the time-value of money is properly factored into topping up measures, and
  - An increased Total Superannuation Balance threshold (currently set at $500,000) for taxpayers who have accessed their superannuation and who wish to utilise the carry forward of unused concessional contributions.

Business of the future - supporting business recovery and growth

- Governments should develop pre-prepared economic and policy frameworks that are activated in response to a disaster and can be scaled up or down quickly in response to the nature and magnitude of a disaster. This should include 'off the shelf' policy responses for small business.
- To accelerate Australia's economic recovery and transformation, Government should fund a program that encourages small businesses to seek professional

advice and assistance on the recovery and reinvention of their business.

Business of the future – export assistance

- The Government should develop or enhance existing measures to sustain and increase Australian exporters' open access to as many markets as possible and support them diversify their markets.
- There should be increased funding of DFAT to initiate and progress more free trade agreements.

Business of the future – supporting greater digital transformation

- The Government should consider developing new programs and significantly increasing funding for existing programs that assist small businesses improve their capability and capacity to digitally transform their business.
- The Government should consider providing direct financial support for small businesses to engage approved e-commerce platforms on which to sell their products and services.

Business of the future – Insolvency reform

- The temporary measures adopted in Schedule 12 of the *Coronavirus Economic Response Package Act 2020* need to be assessed across the course of the economic recovery in terms of their potential derogation of the primary objective of corporate insolvency, with a longer-term view of possible law reform.

Business of the future – supporting Not-for-Profits and Charities

- The Government should act on implementing the proposed improvements to Australian Charities and Not-for-profits Commission (ACNC) legislation to further red-tape reduction and streamline charity regulation.
- A roadmap should be developed for achieving a streamlined and consistent Not for Profit (NFP) regulatory framework in Australia.
- Sufficient funding arrangements should be in place to assist NFPs and charities carry out essential services to support the most vulnerable members of Australian society as we emerge from the pandemic.
- The Government should provide support to assist the NFP sector to build the capability and capacity to invest in the most appropriate technologies for their business, make greater use of social media, and establish or make greater use of online platforms.

An efficiently run future – red tape reduction

- Temporary regulatory relief provided during the pandemic crisis to remove barriers to enable companies to meet their reporting and governance obligations should be permanently adopted, including accommodating virtual meetings, electronic signatures and lodgements.
- Consideration be given to a one-off investment to upgrade regulator technology infrastructure to help them support and regulate a finance economy moving to an online world.
- The Government should reduce or permanently remove fees it imposes on business, including ASIC registry fees and the Tax Practitioners Board renewal or registration fee.
- The electronic lodgement of information should be mandated wherever appropriate to enable easier access to the information of regulated entities.
- Regulatory requirements requiring storage of documents lodged for specified periods of time, usually seven years, should be amended to allow for retention in a suitable, secure and readily accessible electronic form.
- The Government should move away from the full cost recovery funding model for ASIC's regulatory fees and should instead implement a partial cost recovery model.

An ethical and efficiently run future – a principles-based framework of ethics and professional standards

- The Government should ensure capacity building within business continues to take place in relation to combatting the risk of modern slavery in operations and supply chains and combatting foreign bribery.
- The *Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019* should be passed as a matter of priority to provide certainty in corporate conduct in relation to foreign bribery.

DISCUSSION

A sustainable recovery and building for the future

CPA Australia supports a policy focus on business recovery and reinvention, with the goals of achieving strong productivity, employment and GDP growth. This requires giving businesses the resources, space and time to seek professional advice and undertake business recovery planning. We believe that policies need to be accessible and easily implemented, with no unnecessary compliance costs incurred by business and their advisors.

Economic policy decisions should take advantage of the currently low cost of debt and should not be driven by shorter-term budgetary considerations.

We are looking to the National Cabinet to operate effectively and develop coordinated solutions and to take a holistic approach to policy development rather than looking at measures such as JobKeeper in isolation.

Prior to COVID-19, many businesses were struggling with negligible GDP growth, low wages growth and negative private investment levels, reflected in the Reserve Bank of Australia beginning to cut its cash rate in 2019. COVID-19 impacts have meant that Australian businesses now face even greater uncertainty and financial pressures, and it is reasonable to expect an increasing number of business closures and insolvencies.

We expect that there will be structural unemployment as businesses reduce staff when stimulus measures cease and government support is withdrawn, and unemployment rates will consequently increase.

With the removal of temporary insolvency protections in September we expect an increase in insolvencies. A structured insolvency process is required from September to manage the closure of many businesses. We recommend that existing COVID-19 measures are tapered from September, recognising that there is limited benefit in sustaining non-performing or insolvent businesses that have little or no chance of recovery, and that such resources would be better applied to other businesses.

In conjunction with a stepped reduction of stimulus payment amounts, a refined policy may direct government support to sectors or businesses with a higher chance of recovery. This may be in the form of grants or government-guaranteed credit which will shift the delivery mechanism away from the tax and superannuation systems. We note the effectiveness of the ATO and the tax profession in administering government programs and suggest that the government could utilise the ATO's infrastructure, capability, reach and strong working relationship with the tax profession to manage grant programs on behalf of other departments.

Recovery policies should encompass encouraging consumption and investment, as well as government spending initiatives. Stimulus measures that support household incomes should be withdrawn in an orderly, tapered manner as consumer confidence and household spending is critical to restoring GDP growth.

We refer to suggestions made in CPA Australia's 2019-20 Pre-budget submission including:

- Increase public spending on repairs, maintenance and preservation works of public infrastructure
- Introduction of an investment allowance
- Raising the low- and middle-income tax offset for the 2020 and 2021 income years
- Reducing government fees
- Funding the development of programs to assist small business build their digital capability, management skills and understanding of overseas markets.

Government projects, tenders and jobs at all levels of government should, where possible, be directed to Australian businesses employing Australian residents. This should include repairs and maintenance activities and smaller-scale, lower-cost building activities, as well as rebuilding areas affected by bushfires. We also encourage consideration of building and construction projects such as build-to-let or social housing.

We believe that a focus on youth unemployment is critical and that programs that promote apprenticeships and workforce engagement should be developed. Pathways should be created for more youth to enter government roles such as the defence force, protective services, police and the fire brigade. As an example, in Singapore's most recent supplementary budget, it announced that the public sector is creating 15,000 jobs in 2020 in that nation by bringing forward its hiring in areas like early childhood education, health and long-term care, as well as filling short-term needs related to COVID-19. Federal, state and local governments should consider bringing forward their planned hires.

Certainty in recovery

It is our view that the JobKeeper program should not be changed before its scheduled September end date.

JobKeeper recipients are reporting that the payments are a lifeline and are assisting them to manage cashflow and retain staff. For many, they would not be able to survive this period without this government assistance.

Businesses and their advisers now have certainty, having been subject to excessive workloads and administrative burdens to access the measures. Any changes would create financial and administrative turmoil for many businesses.

Due to the somewhat indiscriminate nature of COVID-19 impacts and gaps in real-time and accurate sectoral financial information, it is challenging to narrow the JobKeeper parameters without excluding genuinely affected businesses. Doing so would undermine the policy intent and business recovery or create considerable imposts where eligible employee or business participant requirements are changed.

There is also the argument that, in addition to reducing unemployment levels, the JobKeeper payments are supporting consumer demand and are a now-established mechanism by which the Government can deliver stimulus to help restore economic activity. There is a risk that by withdrawing JobKeeper payments too early, consumer spending and GDP will fall further, business and consumer confidence will drop, and unemployment will also rapidly rise.

We recommend that any modifications to JobKeeper, especially changes to eligibility or turnover tests, occur from September when businesses and advisors will be reviewing financials and re-assessing viability in anticipation of the withdrawal of JobKeeper support and the cessation of cash flow boost payments. We suggest that changes are announced no later than MYEFO on 23 July 2020.

An environmentally sustainable future

Consideration of climate change policy must be a core principle in post-COVID-19 economic recovery policy. Even at this early stage in national responses there is an imminent risk of the rolling back of environmental regulations and emissions targets, and evidence of considerable investment in increased coal capacity.

A pro-growth post-pandemic rebuild need not come at the expense of ESG issues broadly and effective climate change action specifically. Indeed, there is momentum amongst many governments, businesses and investors to ensure delivery of a sustainable and inclusive recovery in which there is a hastening of the decoupling of economic growth from a fossil fuel over-dependency.

The nature of this momentum can be identified in perhaps three broad 'lessons' from the manner of the pandemic's spread and the contrasts in national and international responses:

- Governments, such as Australia's, which have accepted public health scientific advice regarding social distancing measures, and their early and widespread application, have so far fared dramatically better in curtailing the spread of the virus. Recognition of evidence-based scientific consensus regarding the source, scale and timeframes of global warming, has for some considerable time been applied by a significant number of participants and bodies providing oversight of capital markets. The science of climate change needs to be placed at the centre of emission reduction and related energy policy, as well as providing key guidance to building innovation-based economic growth and export diversification (both in terms of products and markets).

It is on this basis that the Government's Technology Investment Roadmap "*A framework to accelerate emissions technology*" is welcome, though we urge a fuller, more comprehensive approach to the economic transformation challenges. Opportunities will only come with a deeper engagement with the recommendations contained in the Climate Change Authority (CCA) March 2020 report - *Prospering in a low-emission world: An updated toolkit for Australia*.

- There is required a deeper understanding of our interaction with, and dependency on, the natural environment. There needs to be in public policy greater appreciation and discourse reflecting the connection between human health and viable wildlife and ecosystems. Human activity such as deforestation and unchecked urban expansion, coupled with the warming of the climate, has pushed nature beyond dangerous limits. Evolving scientific understanding needs to be the critical reference point of public policy to develop a better understanding of the connections between rapid climatic and environmental change, biodiversity loss and species redistribution, and the cumulative impacts on humankind. Climate policy is indivisible from environmental and health policy, and we likewise argue, indivisible from economic policy in a post-COVID-19 world.
- The nature of large-scale crises, the extent to which they can or cannot be predicted, and the increased risk of interconnection, are potentially heightened in severity, once climate change is brought into the equation.

Fundamental to any capacity to predict the timing and magnitude of large-scale crises, along with the evaluation of possible responses, will be dependent on suitable data and associated analytics. In these terms, CPA Australia points to some of the significant thought-leadership contained in the April 2020 McKinsey Quarterly article *Addressing climate change in a post-pandemic world*. There it is stated:

*When it comes to resilience, a major priority is building capability to truly understand, **qualitatively and quantitatively**, corporate vulnerabilities against a much broader set of scenarios, and particularly, physical events. - - - [And further] it is indeed not difficult to imagine a pandemic resurgence coinciding with floods or fires in a given region, with significant implications for disaster response and recovery. (Emphasis added)*

CPA Australia can point to nascent development in corporate reporting to bolster the depth, scope and relevance of narrative qualitative corporate disclosures with reference, in particular, to scenario analysis-based ranges in Celsius degrees of global warming, as recommended by the Financial Stability Board's Taskforce on Climate-related Financial Disclosure (TCFD). Further, meaningful measures are afoot, both in Australia and internationally, to drive consistency and coherence between financial and non-financial disclosures centred on financial market and wider stakeholder expectations as to the accurate pricing and transparent governance of climate-related risk. CPA Australia sees it as vital that the post-pandemic regulatory environment facilitate continuity and embedding of these developments as key components in building a resilient recovery.

Locking in high carbon industries and industry dependency in the short-term post-pandemic recovery will have long term deleterious effects that will be very difficult and expensive to reverse. Similarly, the 'temptations' of nationalism and protectionism should be rejected through renewed and strengthened commitment to international coordination and collaboration under the Paris Agreement.

CPA Australia recommends thorough and close consideration of the CCA report to Government as a key policy resource in guiding Australia's post-pandemic economic transitioning.

In particular, recommendation 1 in Chapter 6 (*Transitioning Australia to a low-emissions future)* states:

Develop a long-term climate change strategy that ensures Australia's contribution to the achievement of the temperature goals of the Paris agreement and ensures we make the most of opportunities arising from the transitioning to a low emissions global economy.

CPA Australia was amongst a number of business, government and community groups urging in their submissions to the CCA a clear, long-term signal, such as a mid-century target, that is important for investment and ensuring a smooth transition to a low-emissions economy. The CCA's recommendation to a substantial degree reflects these sentiments. We urge further in the post-pandemic economic environment, the importance to investment and broader market signalling of setting a firm trajectory of reaching Australia's net-zero emissions position. Similarly, far greater regard will need to be given by Government to the five-year interval 'review, refine and rachet' mechanisms within Australia's Paris Agreement Nationally Determined Contribution (NDC), as part of guiding, in a timely manner, both associated policy levers and business responses towards economic transitioning.

An effectively funded future – tax reform and government expenditure

Tax reforms should seek to encourage business investment and economic growth, as well as support consumer spending in order to restore growth. While we acknowledge the increased Government debt arising from COVID-19 stimulus measures, it is our view that given the weak state of the economy, the government should continue running an expansionary fiscal policy for the foreseeable future. When economic conditions improve, the government's focus of fiscal consolidation should be on its expenditures and to seek efficiencies and productivity gains within its operations, rather than increasing the overall tax burden on Australians.

As part of economic recovery, we suggest that the legislated personal income tax cuts could be brought forward and that further progress be made on reducing Australia's uncompetitive company tax rate. Inefficient taxes such as stamp duty could be targeted as part of a broader review of the Federal and State revenue sources with consideration given to broadening the GST base and/or increasing the rate. The replacement of the Council of Australian Governments with the National Cabinet provides an opportunity for a joint review of taxation, potentially reforming State taxes to achieve better integration and consistency.

Temporary and targeted tax relief could form part of recovery packages, or alternative transfer payments such as JobKeeper could continue to be most efficiently delivered by the ATO.

Savings of the future – retirement system certainty

The COVID-19 pandemic has brought with it a number of challenges to Australia's retirement income system with the retirement savings of many Australians being significantly impacted by the fall in value of the investment markets.

The Government moved very quickly to enact two measures:

- Reduction of pension drawdown rates
- Temporary COVID-19 compassionate grounds for release of superannuation benefits.

The effectiveness of the first measure was demonstrated during the Global Financial Crisis and is designed to ensure that Australians in retirement are not further penalised by being forced to realise assets in superannuation at what is the worst possible time. However, the second measure enables Australians who are not retired to realise assets, at what is the worst possible time, and potentially will have a detrimental impact on long-term retirement savings.

Superannuation is a long-term investment vehicle with rules and incentives in place to ensure contributions are locked away for retirement. Trustees invest the members' assets accordingly and manage liquidity to cater for a certain level of withdrawals due to retirement and members switching funds.

We acknowledge the primary intention to provide individuals with short-term emergency financial support, however it is important to recognise the challenges faced by trustees who have planned liquidity levels around long-term investment horizons when faced with higher volumes of fund withdrawals over a short period of time due to the rules being changed to allow withdrawals for non-retirement related purposes.

We also note that in other jurisdictions which use their retirement income systems for non-retirement related purposes, such as housing or health insurance, that the results are suboptimal compared to systems around the world which are restricted to retirement only.

The retirement income system is presently under review, with the panel due to release its final report in June 2020. We noted in our submission to the review that the definition of retirement had not been established in the consultation paper, and that the idea of a retirement income system designed purely in terms of an income stream may not necessarily reflect the priorities of Australians. We also noted that the objective of superannuation, originally to have been legislated in 2016, has not been established, nor is well understood by Australians.

CPA Australia underlines how important it is that our retirement income system be properly equipped to deal with what it is that it is supposed to support. An appropriate definition of retirement will assist in careful consideration being given to whether the superannuation system should be accessed in the first instance in the future. This definition would also assist policy makers in the design of a potentially more appropriate vehicle that can be used for future pandemics and other shocks to Australia.

The figures released from mid-June show that $17.1 billion has been released from superannuation, with 2.3 million Australians having been successful in accessing their superannuation. Making up for this withdrawal from retirement savings may take decades for some individuals.

Notwithstanding we are awaiting the outcomes of the retirement income system review, there is a need for certainty. The Government should carefully consider a range of options, including whether it is time to raise the Superannuation Guarantee rate, balancing the range of potential benefits and costs. Additional measures should be considered, including encouraging Australians to top up their superannuation by:

- Limited relief in the form of higher contribution limits for Australians who have accessed their superannuation to ensure that they are able to accelerate topping up their superannuation
- A co-contribution scheme for affected members to ensure that the time-value of money is properly factored in to topping up measures
- An increased Total Superannuation Balance limit threshold (currently set at $500,000) for taxpayers who have accessed their superannuation and who wish to utilise the carry forward of unused concessional contributions.

Such work will ensure that certainty is restored to the Australia's retirement income system, and that expectations are properly managed.

Business of the future – supporting business recovery and growth

Break Glass... Again.

Health responses to protect lives meant significant and in some cases drastic impacts on individuals, business and the economy in a way a normal disaster would not impact. Notwithstanding this, lessons for responding to a pandemic of any scale should be absorbed into future policy frameworks and stimulus responses.

In CPA Australia's submission to the National Natural Disaster Arrangements Royal Commission, we argued that governments should develop pre-prepared economic and policy frameworks to a disaster response that could be scaled up or down quickly in response to the nature and magnitude of a disaster. This is especially the case for assistance to directly and indirectly-affected businesses. This would minimise the need for 'policy on the run' and reduce the time between critical decision making and getting expedited assistance and stimulus released.

Although it is too early to fairly and adequately assess the outcomes and effectiveness of the stimulus responses to COVID-19, when this time does come there should be significant critical analysis, modelling and evaluation to build into a future *'break glass in emergency'* response. Having an off-the-shelf, scalable emergency response plan for Australia that is grounded in robust risk analysis would enable future governments to focus on implementing tried, tested and sound programs with the right checks and balances in place.

Both the nature and scale of the emergencies we have experienced throughout 2019-2020 have been acknowledged as unprecedented in most of our lifetimes. However, there is now an opportunity to prepare future governments and generations and better equip them to deal with future scenarios with the knowledge of lessons learned and a greater ability for rapid response.

Encouraging professional advice

The significant financial assistance that has been part of Commonwealth, State and Territory packages will go a long way to helping businesses respond to the COVID-19 emergency. However, businesses also need tailored professional advice to not only assist them in accessing this assistance, but to also assist them in the recovery phase and beyond.

Professional advisers are critical to the successful implementation of stimulus measures and assisting businesses with their recovery. The impact of large stimulus announcements has meant many businesses have sought professional advice to navigate the processes to obtain assistance. However, many of these businesses have been in a position where they have limited or no ability to pay for this advice. Additionally, our members have told us that they do not feel comfortable charging struggling clients, and so take a considerable financial hit despite an increased workload. We are also seeing that small businesses are not seeking the proper advice they need because they can't afford it. This situation has put businesses at great risk when it comes to their ability to recover.

The tax profession has worked diligently and cooperatively with the ATO and Treasury, and the stimulus measures have been successfully implemented. This, however, has come at a significant cost to business through fees for professional advice, bridging finance for JobKeeper payments, the administrative burden and changes to reporting systems. Some businesses in financial distress were unable to afford professional advice, increasing the risk of incorrect claims, while tax professionals on retainers were required to absorb the unexpected costs themselves. There are also instances where tax professionals will not be paid as business clients become insolvent or where they have provided advice pro bono.

The cost of self-assessment, the capacity of the tax profession and the ability of small businesses to access professional advice goes to the heart of the success of these programs to support business recovery from COVID-19. For those unable to afford professional advice, the risks of missing out on fiscal support and business recovery advice increases the risks of business failure. Such situations will become increasingly apparent from October as stimulus and support measures are wound back.

To accelerate Australia's economic recovery and transformation, we suggest that the government fund a program that supports business recovery by encouraging small businesses to seek professional advice and assistance on the recovery and reinvention of their business.

CPA Australia has previously advocated for a voucher system to remove the financial barrier of businesses to seek professional and timely advice. We see the relationship between a business and their professional adviser as critical to fostering viable, productive, innovative and compliant businesses. The value that such a voucher would bring to business and the broader economy should be considerably greater than its direct cost to government.

Business of the future – export assistance

It should be noted that a potential emerging challenge for Australian businesses is the rise of protectionist policies and heightened geopolitical tensions. It would be beneficial for business and the broader economy if the Government were to expand existing measures and introduce new initiatives that sustain and increase Australian exporters' access to existing and new markets.

We note that in the recent New Zealand Budget, the New Zealand Trade and Enterprise (NZTE) had its funding increased by NZ$216 million to assist it to expand the scope and intensity of support provided to New Zealand's exporting firms.

As a matter of urgency, the Government should consider how it can best support exporters diversify their markets. Following the New Zealand example, a substantial funding increase to Austrade appears essential to allow it to significantly enhance the support it provides to exporters and those considering exporting in new markets. Further, the Government should increase its funding of DFAT to initiate and progress more free trade agreements.

The Government may also wish to consider whether the Export Market Development Grant remains adequate and fit for purpose in a post-COVID-19 environment where reduced travel may alter export promotion. Government programs that support digital transformation of business should include supporting exporting to new markets.

Business of the future – supporting greater digital transformation

The Federal Government's support of digital transformation by small to medium-sized enterprises (SMEs) and not-for-profits (NFPs) has to date been inadequate. The strong connection between business growth and high levels of technology utilisation shown in our Asia-Pacific Small Business Survey, and a review of the support provided by Singapore's government in this area, such as its recent Digital Resilience Bonus, demonstrates why we believe the response should be improved.

The disruptions caused by COVID-19 have underscored the crucial role of technology, from supporting remote working to allowing many businesses to continue their operations through online sales. As the past months have demonstrated, technology, previously considered by many as a support function, has transformed into a key driver of value for many businesses, regardless of size.

An Australian Bureau of Statistics survey on how business are responding to COVID-19 found that 38 per cent had changed the method of delivery of products or services, including shifting to online. While this is positive, it still means a large proportion of businesses have not changed, and we believe this will have a detrimental impact on the recovery of Australia's small business sector.

Further, our annual Asia-Pacific Small Business Survey for 2019/20 shows that Australia's small businesses remain significantly less likely than small businesses in Asia to be utilising or investing in technology. Over the 11 years of the survey, we have surveyed over 27,000 small businesses across the Asia-Pacific, and the survey results show that this technology gap is likely to have contributed towards Australia's small businesses being less likely to grow than their peers in the region.

We have identified the following as the major systemic weaknesses impacting the level of digital transformation and technology uptake in Australia's SMEs and NFPs:

- technology skills shortage
- cost involved in employing technology and training workers to utilise technology.

With regards to the former, CPA Australia addressed the need for upskilling the Australian workforce in its Submission to the Senate Select Committee on Financial Technology and Regulatory Technology. Upskilling the Australian workforce will enable SMEs and NFPs to better capture opportunities and leverage technology to deliver new business models in the post-pandemic era, and to make businesses more resilient to future disruptions.

To build the capacity and capability of SMEs and NFPs to digitally transform, we make the following recommendations to Government, drawn from our submission to the National COVID-19 Coordination Commission:

- to assist SMEs and NFPs to invest in the most appropriate technologies, the Government should consider providing direct financial incentives to SMEs and NFPs to engage independent professional advisers to advise them on their technology needs and options, and to assist with implementation
- to assist SMEs and NFPs to make greater use of social media, the Government should consider providing direct financial incentives to such entities to engage professional advisers to advise on how best to implement social media in their organisation and to help them use it
- to assist SMEs and NFPs to establish or make greater use of online sales, the Government should consider providing direct financial support to them to engage approved e-commerce platforms on which to sell their products and services, and for those platforms to assist with content development, product listing, channel management, fulfilment, promotion and training. Such support could be modelled off Singapore's E-Commerce Boost Programme,

Business of the future – Insolvency reform

Frictions exist in the application of insolvency law's fundamental objective of providing an equal, fair and orderly procedure in handling the affairs of an insolvent company. This procedure ensures that creditors receive an equal distribution of the assets of the debtor, with other objectives that have emerged over time, most notably rehabilitation of a business or assets along with deterrence and punishment of corporate and/or director wrongdoing.

These frictions are exacerbated in the current economic crisis. The temporary measures adopted in Schedule 12 of the *Coronavirus Economic Response Package Act 2020*, may highlight shortcomings in corporate insolvency and personal bankruptcy law. This needs to be assessed across the course of the economic recovery in terms of the potential derogation of the primary objective of corporate insolvency with a longer-term view of possible law reform.

1. **Statutory demands – increased monetary threshold and extension of response time.** Unsecured creditor rights in insolvency and bankruptcy are extremely limited and are, in essence, the capacity to prove their debt and stand with equal footing in the collective proceeding – the surrendering of individual remedies both fair and equitable, and giving commercial certainty through avoidance of unilateral action by individual creditors. The power afforded to creditors by Division 2 of Part 5.4 of the *Corporations Act 2001* provides an important underpinning to contractual rights and is a fundamental basis of protection within the insolvency system, given the reciprocal character of debtor/ creditor relationship extending through a chain of commercial dealings. Any further extension beyond the current six-month horizon of operation, risks undermining these rights and potentially adds to systemic risk.

This measure has most likely contributed to a temporary slowing in the volume of corporate liquidations. Invariably though, when these and other economic support mechanisms are either withdrawn or tapered, this will reverse, and most likely, in a dramatic fashion. Within the inevitable pressures that will be placed on the insolvency system, is the harsh reality that a significant number of barely solvent companies, many struggling prior to the pandemic, will fail, and should do so expeditiously. CPA Australia does not in any way disregard the often-tragic human consequences and suggests, at least as a temporary measure, the shortening from three to one year of the automatic discharge period applied under section 149 of the *Bankruptcy Act 1966*.

2. **Temporary relief for directors from personal liability for debts incurred when trading while insolvent.** Although this measure comes with safeguards through clearly not extending protection where the failure to prevent the company incurring the debt was dishonest and places the evidentiary burden on the person seeking relief, potential unintended consequences should be identified, and their impact evaluated. These include:

- The potential for enabling stressed companies to continue trading, which for transaction counterparties may create heightened risk of voidable transaction exposure.
- This could in turn prompt greater resort to transaction protections such as retention of title clauses and other forms of secured transaction registerable under the *Personal Property Securities Act 2009*. Further, somewhat counterproductively, the temporary relief may also impede recovery through engendering a greater reluctance to provide credit, including trade credit.
- The impact of the temporary relief needs to be considered in the context of existing anti-abuse measures and associated safe harbour relief. Directors, in protecting themselves through ensuring that the debt can be characterised as incurred in the ordinary course of business enabling continuity across the six-month period of the statutory measures, remain at some risk. This is the case given the intended wide, though potentially uncertain and subjective,

interpretation of what might be deemed necessary. As such, directors will also likely need to take heed of the existing safe harbour introduced in 2017 as section 588GA of the *Corporations Act 2001*. Specifically, in relation to this latter significant law reform, CPA Australia notes the provision made in section 588HA that the responsible Minister initiate an independent review of the impact of the safe harbour on the conduct of directors and interests of creditors. The review has not been undertaken and CPA Australia believes this should proceed as a matter of the highest priority, with the likely protracted period of economic recovery providing the most suitable practical context for assessing the efficacy of the 2017 law reform.

- The potential for illegal phoenixing to occur, specifically in relation to the temporary relief, and generally in the course of the economic recovery.

Particular note should be taken of the Treasury Laws Amendment (Combating Illegal Phoenixing) Act which introduced the concept of creditor-defeating disposition (defined in section 588FDB) both expanding the scope of identified wrongdoing and adding to the armoury of liquidation recoveries for the benefit of unsecured creditors.

Business of the future – supporting Not-for-Profits and Charities

The COVID-19 pandemic has highlighted many of the shortcomings in Australia's approach to NFP regulation. A rejuvenation of the NFP/charities reform program is urgently needed.

A decentralised regulatory framework that relies on State/Territory-based regulations as well as Commonwealth laws has meant that different approaches have been adopted by regulators to providing relief and assistance to the NFP sector. For example, the approach to deferrals on financial report lodgement has differed between the extremes of no relief to six-month blanket deferrals. The Queensland regulator has deferred lodgement by six months for incorporated associations, ASIC has deferred lodgement for public companies limited by guarantee by one month, while the Australia Charities and Not-for-profits Commission (ACNC) has deferred all lodgements due by registered charities between 12 March 2020 and 30 August 2020 to 31 August 2020. Many other regulators have indicated they will consider deferrals on a case-by-case basis.

The current crisis has highlighted the increasingly important need to hasten regulatory reform and red-tape reduction in the NFP sector. On 6 March 2020, the government responded to the recommendations by the ACNC independent review panel to reform charity law and regulations.

One of the key themes in the government's response was "reducing red tape" which is also one of the three primary objectives of the ACNC. We recommend that the government act on implementing the proposed improvements to ACNC legislation to further red-tape reduction and streamline charity regulation. Although the government's response did not support broadening the regulatory oversight of the ACNC beyond charities to the wider NFP sector, we believe there should be a roadmap developed to achieving a streamlined and consistent NFP regulatory framework in Australia. This roadmap will provide a clear set of objectives that all stakeholders in the NFP sector can work towards achieving over time.

Over the years, the NFP sector has been delegated many responsibilities by the Australian government to provide essential support and services to many parts of Australian society. The sector has continued to deliver these services through the pandemic, with some support from the various stimulus packages that have been made available to the sector. As we emerge from the crisis, it is important that there is adequate funding made available to the sector to ensure an uninterrupted delivery of health, education, disability care, aged care and other essential services.

An efficiently run future – red tape reduction

1. **Regulatory challenges of moving to an online and paperless business**

The disruptions caused by COVID-19, with businesses transitioning to operating in an online, paperless world, have demonstrated the crucial need for regulatory reform. Regulators have been required to provide temporary regulatory relief to remove barriers that enable companies to meet their reporting and governance obligations. Businesses would have been hamstrung by requirements, such as the need for wet signatures and physical annual general meetings (AGMs), if it were not for this relief.

To support businesses embrace the efficiencies and experience of using technology, moving to a paperless office and remote working, these temporary relief measures should be permanently adopted, including virtual AGMs, acceptance of electronic signatures and electronic lodgement of forms and data without the need for retention or submission of hardcopies.

There are a range of paper-based regulatory forms, document storage requirements and processes with hard copy signatures required that add to the regulatory burden and undermining economic stability and growth. Further, the uptake of technology by various government departments is varied. For example, the ATO has extensive technology platforms, mandated electronic lodgement for most reporting and lodgement requirements, their agents engage with them online and use the data for powerful data analytics to enable more effective compliance, and yet ASIC still has a number of paper-based forms.

As part of the Government's deregulation agenda we believe a one-off investment should be considered to upgrade regulator technology infrastructure to help support and regulate the economy in moving to an online world. Importantly in an economically-constrained environment, the costs of such reform cannot be passed on entirely to industry, e.g. as the ASIC Industry funding model would do, as such reform benefits the whole economy and not just particular sectors.

2. Reducing government fees

At the height of the response to the pandemic a range of State and Federal government fees and charges to business were deferred or waived. As the crisis eases, we are now seeing fees normalise with scheduled annual CPI increases in some fees now being announced. For example, the Tax Practitioner Board annual fee increase scheduled for 1 July 2020. To increase the money left in the pockets of small business during the post-pandemic recovery phase and to encourage growth, the Government should announce the reduction or removal of the various fees it imposes on business, especially small business. For example, the Government should reduce or preferably remove:

- fees imposed under ASIC's industry funding model (see detail below), including fees imposed on Australian Financial Services License holders and self-managed superannuation fund auditors
- fees imposed by the Tax Practitioners Board on tax practitioners, and
- the fee imposed for ASIC registry searches.

However, importantly, CPA Australia is not suggesting that funding to these regulators be reduced. The Government should replace the lost revenue from fee income with direct public funding.

3. ASIC funding model

The pandemic crisis has demonstrated that the ASIC industry funding model does not operate appropriately in times of crisis.

First of all, many industry participants, such as insolvency practitioners, SMSF auditors and financial advisers have had their 2018-19 fees due at the height of the crisis, at the same time as business revenue have fallen significantly. Secondly, the ASIC funding model is having a direct impact on the supply of practitioners, with many practitioners exiting their industries as a result of the cost imposed under this model. This is likely to increase due to the impact of the pandemic resulting in a smaller pool of participants to share ASIC's costs. At the same time, regulatory costs are likely to increase in response to the pandemic. We are particularly concerned with the impact this potentially has on the supply of insolvency practitioners when access to their services will be critical during the post-pandemic recovery phase.

CPA Australia does not support the full cost recovery model of the ASIC industry funding arrangement and has previously recommended that the government instead explore a partial cost recovery model.[1] We have outlined in our submissions to Government a number of reasons for this position. However, the two reasons that are particularly relevant given the current crisis are that the full cost recovery model appears not to recognise:

- the impact it may have on the financial viability of those that need to pay the charges, particularly small businesses, and
- the cumulative effect of other government activities on those having to pay fees.

CPA Australia is of the view that the government should move away from the full cost recovery funding model for ASIC's regulatory fees and instead implement a partial cost recovery model. This will require the government to reinstate some funding previously cut from ASIC's budget.

An ethical and efficiently run future – a principles-based framework of ethics and professional standards

Australian businesses, both at home and abroad, generally adhere to high standards, acting lawfully, ethically and responsibly. Typically, the law sets minimum standards of conduct and is only punitive in relation to specific instances of wrongdoing and abuse. Nevertheless, legitimate societal expectations are such that modern corporations act in a manner, and are often encouraged through government policy and societal expectations, to both do no harm and to contribute to positive social, economic and environmental advancement. This is most relevant in terms of how business engages through its extended supply chains and when operating within emerging and developing economies.

Two significant business regulation reforms underway in Australia prior to the onset of the COVID-19 pandemic were:

- business reporting and response in relation to the risk of modern slavery in operations and supply chains
- law reform and business capacity building in combatting foreign bribery.

Each of these significant transnational policy platforms, which depend on both domestic response and institutional collaboration, are at risk of being undermined or placed under significant strain from both the direct human and economic consequences of the pandemic and government behaviour in response to the economic challenges. A major role of the Government across the pandemic recovery, will

[1] CPA Australia submission to Treasury in response to the ASIC industry funding model consultation paper, December 2017.

be to ensure that, in relation to these reforms, capacity building within business continues to take place.

1. Modern slavery

The Government's announcement to temporarily extend reporting deadlines under the *Modern Slavery Act 2018* by three months is welcome. However, the very fine work that has to date been undertaken by Australian Border Force in assisting with the building of business awareness and resources will need to be further enhanced.

Recognising that modern slavery includes the most severe forms of human rights abuse, including forced labour, debt bondage and human trafficking, the Act itself cross-referenced to relevant provisions with the *Criminal Code*. The global economic circumstances are such that the risk of exploitation of some of humanities' most vulnerable is the highest it has been for many decades.

Modern slavery will be one of a range of risks for business in a post-COVID-19 world in both pragmatic terms of brand reputation and public image, and direct financial risk associated with accidents, illegal acts and plaintiff actions. Capacities which are being developed now and into the future will be essential to business resilience and Australia's international stature.

2. Foreign bribery

It is noted that progress to implement recommendations from OECD assessments of Australia's implementation and performance under the Convention on Combatting Bribery of Foreign Public Officials has been slow, but fortunately, appears to have reached a significant stage toward finality.

The *Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019*, was earlier this year approved by the Senate Standing Committee for the Scrutiny of Bills. The Bill amends *the Criminal Code Act 1995* to extend the definition of foreign public official to include a candidate for office, removes the requirement that the foreign official must be influenced in the exercise of the official's duties, replaces the requirement that a benefit and business advantage must be 'not legitimately due' with the concept of 'improperly influencing' a foreign public official, and extends the offence to cover bribery to obtain a personal advantage. Highly important to business operations, the Bill also creates a new offence of failure to prevent foreign bribery, accompanied by a defence of proving adequate procedures.

As the aftermath of the COVID-19-related economic crisis plays out at different stages and in different forms across the world, Australian businesses will be moving into an increasingly uncertain foreign-operating environment. The passing of this Bill is essential to providing certainty in legal rules and in communicating policy-based expectations of corporate conduct. As responsible agencies themselves grapple with these international complexities, the degree to which business is supported through channels of legitimate collaboration and with the availability of meaningful resources, will again play a vital role in both business resilience and in fulfilling Australia's international commitments.

MORE INFORMATION

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