Law Council
OF AUSTRALIA

Registry stabilisation and uplift—draft legislation consultation

The Treasury

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Acknowledgements

The Law Council of Australia thanks members of the Corporations Committee of the Business Law Section, the Charities and Not-for-Profits Committee of the Legal Practice Section, and the International Section for their contribution to the preparation of this submission.

Executive summary

1. This submission comments on the Exposure Draft of Schedules 1 and 2 to the Treasury Laws Amendment (Business Registries Stabilisation and Uplift) Bill 2025 released on 12 December 2025.

2. Australia's business registers need urgent improvement, and we are pleased that Treasury is progressing reform in this area. In particular, it is important that director identification numbers (**DIN**s) are linked to the registers maintained under the *Corporations Act 2001* (Cth) and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (**CATSI Act**) as soon as practicable.

3. The proposed reforms to allow people to provide an alternative address that is not their usual residential address in documents that can be searched by the public is particularly important for security and safety reasons (including in situations of family violence). Giving the Australian Securities and Investments Commission (**ASIC**) a power to correct the registers when needed, so long as it is clearly confined, is also welcome. We would encourage Treasury to explore whether any of the proposed amendments can be brought forward from 2027.

4. We have considered how the proposed amendments will apply to the registers of companies, registered Australian bodies, and registered foreign companies. We also identify some related issues for charities registered under the *Australian Charities and Not-for-profit Commission Act 2012* (Cth) (**ACNC Act**). While we note that the Explanatory Materials indicate that ACNC Act and CATSI Act issues are currently out of scope, we think it is important they are addressed as part of this reform.

5. Many of our comments in the body of the submission are technical. Our broader, overarching observations are:

   (a) The deregistration power in draft subsection 601AB(2A) is too broad.

   (b) If ASIC decides to change a company's registered office to a director's address, it should be to their alternative address if they have nominated one.

   (c) ASIC should not have a discretion to disclose or publish information contained in a document listed in paragraph 1274(1)(a). This information should only be disclosed when permitted by current law.

   (d) Consistent with government policy on electronic communication, companies and their officers should be able to request that communications and notices from ASIC are sent by post, not email (even if email is made the opt-out setting).

   (e) There should be a procedure for a person to apply to ASIC to have personal information redacted from historic documents that are available to the public under section 1274.

(f) To resolve the significant practical difficulties for charities registered with the Australian Charities and Not-for-profits Commission (**ACNC**), the Bill should amend the law so that:

(i) the ASIC register contains no detail about charitable companies but only a link referring the public to the ACNC register;

(ii) it is made clear on the ASIC register that a charitable company or charitable registrable Australian body is not required to notify ASIC of its directors' DINs; and

(iii) ASIC must exercise its power (under the draft legislation) to redact outdated information on the ASIC register for registered charities.

(g) Additionally, for charities, subsection 129(2) of the Corporations Act should be amended to include a reference to the ACNC register, and section 269-50 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) (**TA Act**) should be amended to reflect the fact that ASIC does not hold current information about directors of charitable companies.

(h) Additional leeway should be afforded to foreign companies in order to reflect the practical difficulties created by ASIC's manual processes.

(i) Personal information about members or beneficial owners of companies who are natural persons should not be publicly available on the registers.

6. We expand on these comments below.

General observations on the Bill

7. These are our general observations on the Bill as currently drafted.

Schedule 1, Part 1—Providing director ID numbers to ASIC

8. **(Item 4)** Currently, section 205B of the Corporations Act gives companies 28 days to provide the required information to ASIC. Draft subsection 205B(3A) is not consistent with that timeline. For example, if a director is appointed on day 1 and obtains a DIN on day 5, then the company is required to lodge the DIN with ASIC by day 19. If the intention in draft section 205B(3A) is to allow extra time (beyond the initial 28 days), this should be clarified. It might also be more practical for the period in draft paragraph 205B(3A)(c) to run from when "the person gives the company such a number on a later day", as required by draft subsection 205C(4), rather than from when the Registrar gives the person their DIN.

9. **(Items 8, 9 and 10)** In each case, draft subparagraph (i) refers to 'subsection 205B(3)' and subparagraph (ii) refers to 'paragraphs (3)(a), (b), (c) and (d)'. As these are all the paragraphs in subsection 205B(3), does the distinction need to be drawn?

Schedule 2, Part 1—Deregistration powers

10. **(Item 1)** This amendment would allow ASIC to "decide to deregister a company if ASIC has reason to believe that information given to ASIC" is materially misleading. We think the power in draft subsection 601AB(2A) is an overreach. Deregistration of a company is an extremely serious measure, and it will have significant implications for the company and others if the company has assets or is carrying on business. "Information given to ASIC" is extremely broad, is not limited to documents and is not even confined on the face of the section to information provided by or about the company. Information can be "misleading" even if the company did not (and could not) know the information was incorrect and there was no intention to mislead. ASIC may "have reason to believe" that information is misleading, but the company may take a different view. There are serious consequences for providing misleading documents to ASIC under section 1308 of the Corporations Act and that is where any misleading conduct should be addressed.

11. We note it is proposed that a decision by ASIC under draft subsection 601AB(2A) would be reviewable by the Administrative Review Tribunal under Part 9.4A. However, it is more appropriate, if ASIC wishes to have the power to deal with companies that provide it with misleading information by extinguishing them, to amend subsection 461(1) to allow ASIC to apply to the Court for a winding up order based on a contravention of section 1308 by the company or an officer.

Schedule 2, Part 2—Enabling ASIC to obtain and publish an officer's address for service

12. **(Item 4)** The note to draft section 205D(1) says that under each of the subsections mentioned "the person needs to also include an email address" reflecting the draft amendments in Schedule 2, Part 3, Division 2 discussed below.

13. Draft subsection 205D(2) says that a person "is entitled to have" no more than one alternate address and one email address for the purposes of a notice or application. Many people have more than one email address—rather than using the word "have", it might be better to say that a person may only include one alternative address and one email address in the notice or application.

14. It may be appropriate to include paragraph 601CV(1)(c) in the list of subsections in draft subsection 205D(1).

15. We note that the cross-reference to subsection 205D(3) in subparagraph 1274(2)(a)(iaa) is to be retained.

16. **(Item 5)** The correct cross-reference will be to paragraph (1)(b).

Schedule 2, Part 3, Division 1—Communicating with ASIC

17. While the benefit is understood in allowing ASIC to determine the manner and format in which documents or information must be provided to it, ASIC should not use this (as it has done in the past) to insist on the use of paper forms. ASIC should also limit the situations in which it prescribes the manner and form of documents and information that are to be included on the register.

18. **(Items 9 and 24 and 25)** Draft provisions to be included in the *Business Names Registration Act 2011* (Cth) and the *National Consumer Credit Protection Act 2009* (Cth) deal with ASIC refusing to receive a document or information purportedly lodged or given to ASIC under the Act. They are conceptually related to subsections 1274(8) and (9) of the Corporations Act, but they are potentially much broader in their application because they are not confined to documents purportedly lodged. Given the breath of "information" that might be "given" to ASIC, it may be better to match the narrower drafting used in section 1274.

19. (**Item 13**) It is not immediately clear that "manner and format" is different from content, which presumably is still covered by section 350. It might also be helpful to revisit section 350 and regs 1.0.03–1.0.12 of the *Corporations Regulations 2001* (Cth).

Schedule 2, Part 3, Division 2—Communicating email addresses to ASIC

20. **(Items 22, 34, 35, 36, 40, 41, 42)** These amendments make it compulsory to provide an email address for the company and for individuals, which may give rise to privacy and cyber security concerns given the email address will be public.

21. **(Item 38)** The proposed change should not be made, as it undermines the intention of the proposed change to section 205D. If ASIC changed the company's registered office to the usual residential address of a director who has provided an alternative address under paragraph 205D(1)(b), their address would become public. The section should be left as is.

Schedule 2, Part 3, Division 2—ASIC's communication with others

22. **(Item 44)** This amendment deals with the "ways in which ASIC may send a communication or notice" to an entity (as defined in section 64A of the Corporations Act to include a natural person and a body corporate) but its legal effect is not clear, including its relationship with other laws that deal with electronic communications.

23. Part 1.2AA, Division 2 of the Corporations Act deals with the technology-neutral sending of documents. However, because of subsection 110C(5), it "does not apply to a document that is required or permitted under this Act to be sent by or to ASIC, the Registrar or the Takeovers Panel".

24. If ASIC is sending a communication or notice to an entity, that entity should be entitled to nominate how they wish to receive it. This is consistent with the Australian Government's policy on how government communicates with citizens electronically.[1]

25. It is also important to consider the impact of this provision on service, which is dealt with in section 109X of the Corporations Act. For example, if ASIC were to send a notice under draft subparagraph 206FA(1)(b)(i) to a person requiring them to demonstrate why they should not be disqualified as a director to "an email address that ASIC believes on reasonable grounds to be a current email address" for that person, when, and on what basis, is the person taken to have received that notice?

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1 The Digital Experience Policy (DX Policy)

Schedule 2, Part 4—Correcting information on ASIC registers

26. These amendments give ASIC power to correct errors in or omissions from the registers. Usually, rectification of the register requires a Court order under paragraph 1322(4)(b) of the Corporations Act. It would be helpful for the Explanatory Memorandum to explain the circumstances in which it is intended ASIC exercise this power, and to clarify the effect of a correction on the statutory assumptions in sections 128 and 129 of the Corporations Act.

Schedule 2, Part 5—Disclosing (including publishing) information on the register

27. **(Item 52)** The relationship between draft section 1274AB and paragraph 1274(2)(a) is unclear. It is assumed that ASIC's new power to disclose or publish information was not intended to extend to information in the documents listed in paragraph 1274(2)(a). However, the Explanatory Materials suggest otherwise. This is inappropriate.

28. The existing limitation should be retained. ASIC should only be allowed to disclose information in documents listed in paragraph 1274(2)(a) (including directors' residential addresses) including to an officer of a court for the purposes of enforcing a judgment debt or in accordance with section 127 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Schedule 2, Part 6—Restricting access to information on the register

29. **(Item 54)** It is helpful to give ASIC a broad power to redact or not make available information or documents under section 1274 of the Corporations Act. It might also be helpful for ASIC to have the discretion to omit information that is prescribed information for the purposes of section 1274A in similar circumstances.

30. It would also be helpful for the section to include a procedure allowing an individual to apply to ASIC in appropriate circumstances to redact, as far as practicable, their personal information (such as their residential address) from historic documents that remain available to the public under section 1274. For example, a person might apply if publishing the address would put at risk their personal safety or the personal safety of members of their family. While this may be difficult for ASIC (as it has been for banks that are subject to similar requirements) it would be helpful to include a procedure which allows for that.

31. We note the recent announcement by ASIC that company extracts purchased through the ASIC website will no longer contain the residential addresses of company officeholders.[2]

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[2] ASIC updates information available through purchased extracts (2 February 2026).

Explanatory Materials

32. There are some inaccuracies in the Explanatory Materials released with the Exposure Draft Bill, including where it describes the current law. In Table 2.1:

    (a) it is not accurate to say that "ASIC has limited ability to act when it believes the information it has received from a company is inaccurate or misleading". ASIC frequently requisitions people submitting documents for lodgement, and it has enforcement powers under section 1308 of the Corporations Act; and

    (b) it is not accurate to say that an "officer of a company is entitled to have an alternative address for registry purposes if ASIC considers the inclusion of their usual residential address may put at risk their safety". If the director is on the Australian electoral role, they must apply first to have their residential address removed from the role before ASIC can allow an alternative address.

33. As a general observation, Explanatory Materials that simply paraphrase or describe the draft legislation are not particularly helpful. It is more helpful for the Materials to describe the reason for the change and how it is intended that the law will work differently if the amendments are made.

Registered charities

34. This part of the submission focuses on the impact of the proposed reforms on companies and registered Australian bodies that are registered as charities with the ACNC.

Impact of the draft legislation

35. Section 1272C of the Corporations Act requires directors of charitable companies and charitable registrable Australian bodies to obtain a DIN. The draft legislation proposes to amend section 205B of the Corporations Act to introduce a new requirement for companies to submit DINs for each of their directors to ASIC as part of their ongoing reporting processes.

36. Section 205B of the Corporations Act is a provision that is "switched off" for companies and registrable Australian bodies registered under the ACNC Act by section 111L of the Corporations Act (table 8). Section 111L also generally exempts charitable companies and registrable Australian bodies from notifying ASIC of other changes to its directors. This is to facilitate the ACNC's role as the primary regulator of charities and reduce red tape for charitable companies.

37. As charitable companies have to incorporate through ASIC and under the Corporations Act, the ASIC register displays the information relating to the first directors but unless the charity updates ASIC (which it is not required to) there may be no further notifications of the directors' details. This creates a number of difficulties set out below due to the lack of synchronisation.

38. The consequence of this draft legislation as it stands is that many charitable companies will show not only out of date information as to the directors but will also display an 'unconfirmed DIN' in relation to these directors. The Charities and Not-for-Profits Committee recommends that further consideration is undertaken as to the operation of the ASIC register with respect to companies registered with the ACNC and how the DIN regime is intended to apply to directors of companies registered with the ACNC. At present the policy objective for these companies and their directors is unclear.

Opportunity for this Bill to provide clarification

39. Unfortunately, despite the exemptions for charitable companies and registrable Australian bodies that exist with respect to notifying ASIC of changes to its directors as outlined above, there remain numerous instances of legislation requiring or assuming notification to ASIC or failing to authorise reliance on the ACNC register instead of ASIC's register. For example:

    (a) Subsection 129(2) of the Corporations Act empowers a person to assume that anyone who appears, from information that is available to the public from ASIC, to be a director or a company secretary of the company, has been duly appointed and has the power to exercise the powers and perform duties of the relevant office.[3]

    (b) Section 269-50 of the TA Act allows the Commissioner of Taxation to rely on the address information held by ASIC instead of the Australian Business Register when issuing penalty notices to companies.

40. These sections can result in adverse consequences unless charitable companies notify both ASIC and the ACNC where there are changes to directors, despite the intention that the ACNC is the primary regulator for companies registered with the ACNC and the desire to reduce red tape and unnecessary administration for these companies.

41. The adverse consequences currently experienced by charitable companies as a result of these provisions and the ASIC register being out of date include:

    (a) imposing liability on previous directors of charitable companies where ASIC has not been notified;[4]

    (b) creating uncertainty as to the validity of director appointments where ASIC has not been notified of changes to directors;[5] and

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[3] This results in third parties insisting that they must rely on the ASIC register rather than the ACNC register and exposes previous directors of charitable companies to liability where ASIC has not been notified of their resignation or where ASIC has been notified but has not updated its publicly available register.

[4] See, eg, *Macpherson v Warringah Bowling Club Ltd, in the matter of Warringah Bowling Club Ltd (Administrators Appointed)* [2025] FCA 1539.

[5] See, eg, *Re Leeuwin Ocean Adventure Foundation Limited (In Administration); Ex Parte John Allan Bumbak and Richard Scott Tucker as joint and several administrators of Leeuwin Ocean Adventure Foundation Limited* [2023] WASC 480.

(c) penalty notices being issued to directors of charitable companies where they should not have been.

42. Charitable companies and registrable Australian bodies also experience practical consequences of outdated ASIC records, as many organisations that charities regularly rely on (such as banks, financial institutions, and other third parties) insist on relying on ASIC's register, despite the ACNC register being more up to date.

43. The Charities and Not-for-Profits Committee strongly supports Treasury's commitment to look "at opportunities to synchronise information on charitable companies provided to the ACNC with the Companies Register",[6] and recommends this Bill be amended to rectify difficulties in relation to the ASIC register for companies registered with the ACNC as set out below:

(a) The ASIC registers contain no detail about charitable companies but only a link referring the public to the ACNC register.

(b) It is made clear on the ASIC register that a charitable company or charitable registrable Australian body is not required to notify ASIC of its directors' DINs.

(c) ASIC exercises its power under the draft legislation to redact outdated information on the ASIC register for registered charities.[7]

(d) Section 129(2) of the Corporations Act is amended to include a reference to the ACNC register (see below).

(e) Section 269-50 of Schedule 1 to the TA Act is amended to reflect the fact that ASIC does not hold current information about directors of charitable companies.

44. The suggested amendment to subsection 129(2) is that "[a] person may assume that anyone who appears, from information provided by the company that is available to the public from ASIC **or, in the case of a company registered with the ACNC, from the ACNC register,** to be a director or a company secretary of the company …" (additional words in bold).

Foreign companies

45. The regime poses significant challenges for foreign companies. A director of a foreign company must obtain a DIN before the branch is registered or updated. In practice, for global institutions this can be difficult within the one-month ASIC notification period. Overseas directors often must verify identity before a local notary and, as recommended, obtain an apostille under the Hague Apostille Convention. Even where a director prioritises Australia, obtaining a DIN within the timeframe can be challenging. Further, notifications of director changes for foreign companies must be lodged with ASIC in wet ink (Form 490), rather than electronically.

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6 The Treasury, Registry stabilisation and uplift design: Background paper to accompany exposure draft legislation (December 2025) 6.

7 See Exposure Draft Explanatory Materials, [2.76].

46. This creates a material risk that incoming overseas directors—who may be unaware of an Australian branch or of Australian personal compliance requirements—will inadvertently breach the rules by applying for a DIN or notifying ASIC late. If new legislation were to penalise overseas directors from the date of their overseas appointment, these difficulties would be compounded.

47. We therefore recommend that:

    (a) The practice for notifying changes to directors of foreign-registered companies be reviewed to reflect practical international constraints.

    (b) Any offence or penalty provisions continue to recognise that, for incoming directors, the requirement is to **have applied** for a DIN (rather than to have obtained it), acknowledging potential verification delays abroad.

    (c) Electronic lodgement be enabled for foreign company director change notifications, or, alternatively, a reasonable grace period be provided where proof of a timely DIN application is furnished.

Membership and beneficial ownership information

48. For the reasons set out in the Treasurer's letter to ASIC dated 28 January 2026,[8] personal information about members of companies who are natural persons should not be publicly available on the register. This information still appears in the company extract and was not excised by the policy change made by ASIC recently.

49. The Exposure Draft contemplates public access to beneficial ownership information. The European Union initially pursued a similar approach. We draw your attention to the subsequent judgment of the Court of Justice of the European Union (Grand Chamber) of 22 November 2022 in Joined Cases C-37/20 and C-601/20 (Luxembourg Business Registers),[9] which held that unfettered public access to beneficial ownership information infringes Articles 7 and 8 of the Charter of Fundamental Rights (respect for private life and protection of personal data), as it was not strictly necessary or proportionate.

50. While each jurisdiction must strike its own balance, the judgment offers persuasive comparative guidance. If ultimate beneficial ownership information is to be publicly available in Australia, the regime should:

    (a) adopt risk-based, tiered access (e.g. full access for competent authorities and obliged entities; limited access for others based on demonstrated legitimate interest);

    (b) include proportionate safeguards (redaction of sensitive personal data, exemptions for individuals at risk, audit trails and robust penalties for misuse);

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8 https://www.afr.com/interactive/2025/data/document-host/ASIC-letter.pdf
9 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62020CJ0037

(c) provide clear necessity and proportionality justifications, with periodic review; and

(d) ensure accessible mechanisms for individuals to seek redaction or restricted disclosure where safety or privacy risks arise.

Further engagement

51. We will contact you shortly to make a time to expand on the matters raised in this submission. Meanwhile, if you have any questions, please email Dr Pamela Hanrahan of the Corporations Committee at pamela.hanrahan@jws.com.au.

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