

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2017 - 2018

Division/Agency: Australian Small Business and Family Enterprise Ombudsman

Question No: 83

Topic: Phoenix Activity

Reference: Written

Senator: Ketter, Chris

Question:

1. What do you think about the proposal to introduce a Director Identification Number, which has been suggested by many different bodies?
2. What are the benefits of a DIN for enforcement agencies and the public?
3. How will the DIN assist small business?
4. Has the Government or Treasury sought feedback from you on this recommendation from the PC?
5. If so, when was that?
6. Do you hear from small businesses regularly about suspected fraudulent phoenix activity? Can you illustrate the types of damage this activity does to small business?

Answer:

1. The Ombudsman is supportive of proposals to introduce a Director Identification Number.
- 2-3. Director's identification numbers allow the identification of directors involved in setting up and closing down multiple companies. This would provide clarity around the identification of individual directors. This would allow both members of the public, small business owners and enforcement agencies to catalogue the involvement of individuals with successful and unsuccessful companies.
4. No.
5. No review of a proposal or feedback relating to DINs has been sought from the Ombudsman's office.
6. The issue of suspected fraudulent phoenix activity is raised with our office in both advocacy and assistance functions regularly. The damage that phoenix activity has on small business is twofold. Firstly, it has a direct financial impact on a small business that has traded with the indebted company which was subsequently abandoned by directors who phoenix a new company. Small business owners report they have lost payments; experienced the non-delivery of goods or services; been pursued by insolvency practitioners, as well as the impact on their mental health, the amount of time and administrative impact on their own business in dealing with the fallout of that company.

The second impact is the broader economic impact. This results from the decrease in economic confidence and the value of bona fides for the conduct of trade between parties in the economy. Increasing incidences of phoenixing leads to greater risk which has a cost impact and efficiency impact to the economy as businesses incorporate the costs of due diligence and risk of non-payment into trade with new entities. Phoenixing

tarnishes the reputation of small businesses in general. This can raise barriers and impediments for new entrants seeking to undertake commercial activities as they seek to establish a market presence and win customers.