



Reference: TA21/558

Manager
Market Conduct Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: MCDInsolvency@Treasury.gov.au

Dear Sir / Madam

Increasing the Statutory Demand Threshold

Thank you for the opportunity to provide feedback on the threshold at which a statutory demand can be issued on a company.

The NSW Small Business Commissioner ('The Commission') is an independent statutory office of the NSW Government. It provides strategic advice, advocacy and affordable dispute resolution services to small businesses across NSW.

The Commission's role includes:

- encouraging government agencies and larger businesses to enter productive working relationships with small businesses;
- facilitating and encouraging the fair treatment of small businesses; and
- promoting a fair operating environment in which small businesses can flourish.

The Commission recommends further consideration be given to the needs of small business and potential impacts, on them as part of this review.

The Commission notes that changes to the statutory demand threshold were appropriate to support business stability in the immediate period following the outbreak of COVID-19. The Commission believes a similar case could continue to be made for ongoing flexibility for businesses that remain affected by COVID-19 restrictions. We do not recommend a specific or optimal threshold or for how long any alternative arrangements should apply, however, we recommend a thorough examination of the impacts on small businesses as both creditors and debtors prior to a decision being made.

In looking beyond COVID-19, we note that small businesses rely on the ability to issue a statutory demand to protect their interests. Increasing the threshold may tend to disadvantage small businesses who rely on the ability to secure payment for lower-value goods or services. The Commission encourages further consideration of how potential changes could impact small businesses reliant on lower-value claims.



The Commission also notes the potential for a higher threshold to impact payment terms offered to small businesses. In addition, a permanently higher threshold may allow unviable businesses to continue to trade for longer with potential consequences for small business creditors and their own financial health.

Any benefits associated with providing additional flexibility for small businesses need to be weighed against these potential impacts. If a decision is made to increase the threshold, the Commission recommends consideration of further complementary measures which could mitigate any unintended consequences.

Should you require any additional information, the appropriate contact is Megan Bennett, Executive Officer, on either megan.bennett@smallbusiness.nsw.gov.au or 9372 8767.

Yours sincerely

A handwritten signature in blue ink that reads 'Chris Lamont'.

Chris Lamont
Commissioner
NSW Small Business Commission
5 March 2021