19 December 2025

Dear Treasury,

Submission to Treasury Consultation on Combatting financial abuse perpetrated through coerced directorships

Thank you for the opportunity to make a submission to Treasury's consultation on Combatting financial abuse perpetrated through coerced directorships (the **Consultation**).

Given the Economic Abuse Reference Group's expertise in economic and financial abuse and our diverse membership of community services, we are uniquely placed to provide specialist input to assist with the development of policy options to combat the misuse of corporate and tax systems by perpetrators of financial abuse. Our network regularly provides feedback to guide industry, government and the community sector, and is a leading voice on addressing financial and economic abuse in Australia.

We would welcome the opportunity to participate in further consultations as Treasury develops its policy response to this critical issue.

Yours faithfully,

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List of Recommendations

1. Identify key loopholes that can be exploited by perpetrators throughout the corporate and tax system, and consider solutions along the spectrum of prevention, identification and resolution of financial abuse.
2. Expand the scope of this consultation and reform proposals to include other business structures in addition to company directorships, such as trusts, self-managed superannuation funds, sole trader arrangements and partnerships.
3. Fund dedicated financial abuse services nationally, ensuring that eligibility for funding extends to business matters, rather than only consumer credit matters.
4. Introduce significant safeguards and real-time identity verification to each of the Director ID application processes, particularly the paper application process which relies on static identity documents and is susceptible to fraud and misuse by perpetrators of financial abuse.
5. Introduce an additional step in the Director ID or director appointment process to verify the contact details of the person appointed, contact the person appointed and confirm they are aware of and consent to the appointment.
6. Implement automatic alerts to a director's verified personal contact (not company details) for any changes to director appointments or penalty notices.
7. Comprehensively display information related to company directorships and business structures from ATO and ASIC databases in myGov accounts.
8. Make support services such as financial counselling agencies and community legal centres eligible for fee-free tiered access to the Australian Business Registry Services (ABRS) Director ID system and information on the Companies Register.
9. Introduce safeguards into the company registration process to detect and prevent fraud and coercion and correct any deficiencies in the Director ID process.
10. Empower ASIC to make preliminary determinations of coercion based on statutory declarations and supporting professional evidence, subject to review. Where a company directorship is annulled due to coercion, ASIC can provide statutory protection from liability to directors while third parties retain rights against the company and shadow directors.
11. Create a trauma-informed director removal pathway via ASIC and Director ID cancellation via ABRS, that accepts statutory declarations supported by evidence from professionals (e.g. police, domestic violence services, financial counsellors, community lawyers) as sufficient proof of coercion, and does not require victim survivors to notify the perpetrator or registered officeholders before removal.
12. Ensure that reforms expressly state that liquidators and authorities investigating the affairs of the company should seek redress from the perpetrator as the company's de facto director.
13. Require ASIC to remove non-consenting directors from the Companies Register, including deregistering or winding up companies that do not have a duly appointed consenting director, at no cost to the victim survivor.

14. Allow coerced directors to resign directly by application to ASIC, instead of to the company, to remove the need for victim survivors to engage directly with the perpetrator and/or professional intermediaries.
15. Ensure that communications from ASIC to any co-directors or professional intermediaries about corrections to the Companies Register indicate these corrections were initiated by ASIC rather than the victim survivor.
16. Introduce defences in the Corporations Act for relief from liability in circumstances of coercive control in sections 588H, 588FG and 1317S, not only as a defence to insolvency-related directors' duties.
17. Amend RG258 to introduce a new section addressing coerced directorships and instructing liquidators to pursue the de facto director rather than the coerced director.
18. Ensure that coercive control defences do not include a temporal requirement for coercive control to have occurred at the time in which the contravention occurred, in recognition of the gradual and insidious nature of coercive control.
19. Ensure that coercive control defences apply to coerced directors who took part in the management of the company under coercion or in good faith, not just coerced directors who never took part in the management of the company.
20. Require the ATO to develop a family violence policy in close consultation with advocates and victim survivors with lived experience.
21. Require the ATO to invest in specialist staff training on financial abuse and coercive control.
22. Extend the timeframe for victim survivors to respond to a Director Penalty Notice to 60 days and provide an automatic 90-day extension where the director makes a preliminary declaration of coercive control.
23. Establish specialised teams within ASIC and the ATO with dedicated resources to investigate and prosecute perpetrators of financial abuse and coerced directorships.
24. Consider 'how often' and 'which' intermediaries or professionals enable or facilitate the weaponisation of company directorships, to ensure the policy options, reforms and penalties are tailored to the prevalence and drivers of these behaviours among each profession.
25. Implement strict penalties for intermediaries and professionals who enable or facilitate the weaponisation of company directorships.
26. Consider opportunities for professional service providers such as accountants, lawyers, financial advisers and planners, and trust and company service providers to consider coercion as part of their upcoming AML/CTF risk assessment obligations.
27. Mandate professional bodies to co-design education resources and minimum practice standards with victim survivor advocates, ensuring accountants, lawyers, financial advisers and company service providers can identify and respond to coercion and financial abuse in directorship arrangements.
28. Require the Tax Practitioners Board to develop and implement a family violence and financial abuse policy to guide responses to and report on complaints involving

coerced directorships or financial abuse, ensuring victim-survivor safety and accountability for practitioners.

29. Require the ATO to exercise its powers of investigation in cases of fraud by perpetrators of financial abuse and coercive control against known third parties.
30. Require liquidators and ASIC to flag and escalate suspected coercion or shadow director activity and establish a mechanism for these reports to trigger targeted investigations.
31. Ensure the definition of coercive control is appropriately tailored to a corporate and tax context and includes reference to economic and financial abuse, including the exploitation and sabotage of money, finances and economic resources, rather than simply control.
32. Adopt a comprehensive and non-exhaustive list of prima facie evidence of coercive control or family violence that can be updated over time as appropriate, keeping evidentiary requirements as low as possible.

About the Economic Abuse Reference Group

The Economic Abuse Reference Group (**EARG**) is a network of over 60 community organisations across Australia that work collectively with government and industry to reduce the financial impact of family violence. Members include domestic and family violence (**DFV**) services, community legal services and financial counselling services. Our work encapsulates the experience of our members (as lawyers, financial counsellors or DFV support workers) who assist clients who have experienced economic abuse. State sub-groups have formed in Victoria, New South Wales and Western Australia to work on local issues. Our website lists the organisations that contribute to EARG's work. Not all organisations contribute on every issue, and other organisations may contribute from time to time. See EARG's Terms of Reference. Some EARG member organisations have made their own submissions to this Consultation.

EARG has been working on many of the issues discussed in this submission for years and has, within our membership, significant breadth and depth of expertise across the many legal, regulatory and government systems with which financial abuse intersects, particularly the corporate and tax systems.

We thank the EARG member organisations who have made substantial contributions to this submission based on their expertise and casework, including Each, Redfern Legal Centre and Super Consumers Australia.

We also acknowledge the valuable contributions made to this submission by non-member collaborators of the EARG, including Associate Professor Vivien Chen at Monash University and Associate Professor Ann Kayis-Kumar, Founding Director of the UNSW Tax and Business Advisory Clinic.

Endorsement

We support the submission made to this Consultation by the UNSW Tax and Business Advisory Clinic.

General comments

We commend Treasury for hearing the experiences of victim survivors and their advocates and exploring much-needed reforms to Australia's corporate and tax system, which will have tangible and life-saving impacts for people experiencing financial abuse and coercive control.

However, we are concerned that Treasury will not receive the volume and diversity of expertise and proposals that this Consultation deserves, given the Consultation is only open to submissions for 4 weeks, part of which falls during the end-of-year shutdown period and extended staff leave for many stakeholders. Extending the deadline for submissions or continuing to accept submissions informally until the end of January 2026 would significantly increase the quality and range of input to this critical discussion. We are aware of many community organisations, firms, professionals and industry bodies that have decided not to contribute to this Consultation due to the length and complexity of the Consultation Paper and their limited capacity to prepare detailed submissions at this time of year, particularly when juggling multiple Government consultations with 24 December deadlines.

We also note that Treasury has just commenced a consultation on the Registry Stabilisation and Uplift Design, with submissions due 10 February 2026. The outputs of this consultation should be considered concurrently with the current Consultation to ensure alignment and avoid duplication or gaps in addressing system vulnerabilities. The overlapping timing of these consultations further compounds capacity challenges for stakeholders and risks limiting the depth of analysis across interconnected issues.

While many of the topics and potential solutions raised in this Consultation are important, it is difficult to determine the extent to which they will fully address loopholes in the company directorship system as there are multiple government agencies, processes and other actors involved. We recommend that the Government:

1. Take a more holistic approach to this issue and look at the system at a whole to identify the key loopholes that can be exploited by perpetrators throughout the corporate and tax system. This should not be isolated to company directorships and requires ‘thinking like a perpetrator’ and centering prevention and safety in system design.
2. Consider solutions along the spectrum of prevention, identification and resolution of financial abuse.

Recommendation 1: Identify key loopholes that can be exploited by perpetrators throughout the corporate and tax system, and consider solutions along the spectrum of prevention, identification and resolution of financial abuse.

Scope limited to one type of business structure

We remain concerned about the limited scope of this Consultation and the proposed policy options. Companies are only one of the business structures exploited by perpetrators of financial abuse and coercive control. The proposed reforms to the company director appointment process will have flow-on effects for other business structures that require directors (such as trusts and self-managed superannuation funds) and must be considered as part of a holistic approach to reforming Australia’s corporate and tax system.

By focusing on companies in isolation, the Consultation overlooks the harms caused by perpetrators misusing a variety of other business structures to cause harm to their victims and exploit government systems, such as fraudulent or coerced Australian Business Number (ABN) registrations, trusts, partnerships, GST fraud, and self-managed superannuation funds. See, for example, preliminary data from three services assisting victim survivors of financial abuse in business:

- **UNSW Tax and Business Advisory Clinic:** Of clients seeking assistance for tax-related financial abuse, companies represent only 51% of business entities used to create coerced tax debts, followed by ABN or sole trader arrangements (24%), partnerships (24%), and trusts and other entity types (1%).
- **Redfern Legal Centre’s Financial Abuse Service NSW:** Of clients seeking assistance for business-related financial abuse, companies represent 57% of business structures, followed by ABN or sole trader arrangements (14%), trusts (10%) and partnerships (5%). The remaining 10% of cases involve a victim survivor having a personal income tax liability due to their ex-partner reporting false income through payroll and not withholding tax, leaving the client with a tax shortfall.
- **Each:** Of clients seeking assistance for business-related financial abuse, companies represent 85% of business structures, followed by trusts (10%) and ABN or sole trader arrangements (5%). This reflects the complexity of the cases this limited service currently accepts. Of clients with company structures, 40% have multiple companies, additional trust entities and sole trader ABNs. 70% of total clients have

additional individual tax account liabilities arising from falsely reported earnings from these entities.

Collectively, while there is limited data available in the legal assistance sector, these three services reflect similar trends: up to half of business-related financial abuse is perpetrated through business structures other than companies.

If the proposed reforms only close loopholes in one area of Australia's corporate and tax system, we expect to see perpetrators pivot to other business structures and entity types to continue their abuse, shifting the harms elsewhere in the corporate and tax system. The Australian Government's commitment in April 2025 was to 'Prevent perpetrators from using the tax and corporate systems to create debts as a form of coercive control and make perpetrators accountable for these debts if they do', not to prevent perpetrators from using only the *company directorship* system to create debts.

Recommendation 2: Expand the scope of this consultation and reform proposals to include other business structures in addition to company directorships, such as trusts, self-managed superannuation funds, sole trader arrangements and partnerships.

Case study 1 – Financial abuse through ABN and GST fraud (Redfern Legal Centre matter 215864)

Faye* was in a relationship with her de facto partner Felix* who subjected her to significant physical, verbal and financial abuse. Felix coerced her into applying for an ABN which he then used to make multiple fraudulent GST credit claims amounting to over $100,000. Felix used the funds on his lifestyle expenses and to buy drugs. The ATO realised the error after paying out the GST credit refunds, and issued amended assessments resulting in Faye owing a large debt to the ATO.

Faye had since left the relationship due to the abuse and contacted Redfern Legal Centre's Financial Abuse Service for help to resolve the ATO debt. The lawyer and Faye had several conversations with the ATO explaining the situation and notifying the ATO of the substantial family violence and financial abuse Faye had experienced. After numerous calls with the ATO, the debt department confirmed all debt recovery action in relation to the debt would be put on hold for six months. The ATO identified Felix's conduct as a scheme that was being investigated as part of a larger ATO GST project.

A month after Faye received confirmation that debt recovery action had been paused, she received an automated notice from the ATO that the debt had been reported to the credit reporting bureaus as she had not engaged with the ATO. Faye had engaged multiple times with the ATO to try to resolve this issue, and the escalation to the credit reporting bureaus caused her significant distress and will impact her ability to access credit. Faye has lodged a complaint with the ATO but is yet to receive a response as current response times can be up to 10 weeks. She wants to make a complaint to the Tax Ombudsman but cannot do this until she receives a response to her ATO complaint.

Need for tangible policy proposals

While we welcome this Consultation as an important first step towards meaningful reforms, interested stakeholders and victim survivors of financial abuse would be better placed to comment on proposed reforms if Treasury were to propose specific policy options (for example, draft regulatory proposals and legislative amendments) rather than high-level principles, which can be difficult for advocates to meaningfully comment on.

Throughout this submission, we aim to highlight issues and consequences that will require further detailed thinking and substantive policy proposals from Treasury.

Need for significant investment in support services

Any reforms to Australia's corporate and tax system must be accompanied by a significant investment in free support for victim survivors to navigate the reforms, as legislative defences will be meaningless if victim survivors are not aware of them and cannot articulate these arguments to liquidators, creditors, the ATO, ASIC and others.

Access to free assistance for business-related financial abuse is a postcode lottery in Australia, and the DFV sector, legal assistance sector and financial counselling sector are critically unprepared and unfunded to advise on these issues. Very few free services assist with company-related financial abuse as this often requires specialist expertise in corporations law, insolvency law and tax law:

- Frontline DFV support services typically do not triage for financial abuse as part of client intake, given the more immediate needs of physical safety, housing and healthcare.
- Legal Aid commissions do not advise on matters involving companies or business structures.
- Community legal centres typically are not funded or equipped to advise on matters involving companies or business structures.
- There is only one statewide specialist financial abuse service in Australia, operating only in New South Wales, and this is the only service providing free legal advice on company and tax issues in Australia's legal assistance sector. The report Addressing Financial Abuse: A Collaborative Service Model for Legal and Non-Legal Support (2022) recommends that a state-wide multidisciplinary financial abuse service be funded in each state and territory with a company and tax lawyer. Redfern Legal Centre's Financial Abuse Service NSW, based on this model, has only 1 FTE company and tax law specialist to service the entire state.
- Financial counselling services typically do not advise on business debts. The exception is the Small Business Debt Helpline, which can only provide advice (not representation or casework assistance) to small business owners, leaving victim survivors to self-advocate in challenging circumstances. Each operated the Partners in Wellbeing Small Business disaster response program, one of the very few financial counselling services that specialised in business debts. It closed in June 2025 due to the lack of funding.
- Each commenced a self-funded business-related financial abuse micro pilot program in June 2025, with the service immediately at capacity, and is seeking funding for a national service to respond to business-related financial abuse.
- The National Tax Clinic Program, supported by Federal Government funding administered by the ATO, has very narrow eligibility criteria. Most clinics operate only during university teaching periods and do not advise on financial abuse-related tax debts.
- Federal funding for financial abuse resolution services has exempted business matters from eligibility criteria.

Recommendation 3: Fund dedicated financial abuse services nationally, ensuring that eligibility for funding extends to business matters, rather than only consumer credit matters.

Response to Consultation Questions

A. The experience of coerced directorships

1. Are there additional ways companies are misused to perpetuate financial abuse and coercive control?

Post-separation financial abuse and coercive control

The consultation paper anticipates circumstances where victim survivors have experienced financial abuse and coercive control during their relationship with the perpetrator, who acts as the shadow director of the company. However, perpetrators have been known to phoenix or sabotage companies after victim survivors have left the relationship, leaving the victim survivor to bear the liabilities. For some victim survivors, financial abuse escalates when they leave the perpetrator, who retaliates by using existing business structures to coerce victim survivors into debt.

Some victim survivors are pressured by former partners into signing guarantees and other business documents purportedly in relation to child support i.e. 'I can't pay child support unless you help with the business', then find later that they are pursued by debt collectors for the perpetrator's business debts.

Complex company structures involving parent companies, multiple subsidiaries and/or trusts add to the challenge of identifying assets and liabilities for the purposes of family law property settlement, and can be used to conceal assets and leave victim survivors with debts. Trust spousal distributions can significantly impact property settlements after separation.

For more detail, see Vivien Chen and Jasmine Opdam, Coerced Business Debts: Uncovering Hidden Harms from Economic Abuse, 2025, at pages 7-8.

Trusts with corporate trustees

Trusts with corporate trustees create a perfect storm of complexity, opacity and liability that perpetrators exploit systematically, yet they remain almost entirely invisible to regulators, support services and victim survivors. Perpetrators weaponise these structures by appointing the victim survivor as director of the corporate trustee while retaining complete control through the trust deed. The victim survivor bears director liability for the company as well as potential personal liability for trust debts, but has no actual control over trust assets or decisions to cause compliance or protect themselves from liability.

Unlike companies, trusts have virtually no regulatory oversight. There is no register of trusts, no requirement to register trust deeds or disclose beneficiaries/appointors, and corporate trustees appear as normal companies on ASIC's register. Victim survivors often do not realise they are the director of a corporate trustee rather than a standard company, and support services assessing financial abuse cannot identify trust structures without extensive investigation. Often the company name wording “Trustee of…” or “ATF” are the only indicators of an underlying trust structure.

The ATO receives trust tax returns showing only the corporate trustee, not the directors, meaning coerced directors are pursued with no systemic capacity to identify whether they are a victim-survivor of financial abuse with no control or benefit from the trust. Trust deeds showing who has power and control of the trust are almost impossible to access. No government agency holds them, perpetrators or their advisors often refuse to provide them or claim they are ‘lost’, it can be difficult to determine who holds the trust deed, and there is no legal mechanism to compel production outside of costly court proceedings. Without the trust deed, victim survivors cannot prove who controlled the trust or that they were excluded from benefits, which are essential pieces of evidence for defending against director liabilities.

Other countries have implemented trust registers, such as the UK’s Trust Registration Service maintained by His Majesty’s Revenue and Customs (HMRC), the UK equivalent of the ATO. Australia has not implemented a trust register and Treasury is only at the early policy development phase of considering beneficial ownership reform in Australia.

Without addressing trust structures specifically in the coerced directorship reforms, perpetrators will simply migrate to trust-based abuse mechanisms that remain invisible to regulators and inaccessible to victim survivors.

Case study 2 – Financial abuse as corporate trustee (Each)

Kate* was appointed director of the corporate trustee operating her husband's manufacturing business through a discretionary trust structure. Her husband told her it was "required by the bank" and she signed consent at the accountant's office. He was appointor and sole beneficiary and Kate was excluded from the beneficiary class.

Kate thought she was only a director of a trading company, not corporate trustee. She never saw the trust deed, never received business income (all distributions went to her husband and his parents) and never had access to accounts or records. She worked elsewhere in paid employment and believed they jointly owned “the family business”.

After Kate left the relationship, she discovered employee superannuation and PAYG withholding had not been paid. All ATO notices went to the accountant who reported to her husband. Kate had received nothing to make her aware of the escalating situation with her liabilities, that resulted in a Director Penalty Notice for $156,000 and insolvent trading claim for $287,000.

The corporate trustee held business premises and equipment worth more than the liabilities, but these assets became inaccessible after Kate’s husband used his appointor power to remove the corporate trustee, appointed his brother’s company as the new trustee, and transferred all assets. The business continued to trade under the new structure, while her husband retained all of the assets and faced no consequences. Kate declared bankruptcy as she had been advised by a lawyer there was no other option.

Self-managed superannuation funds

A business structure not covered under the current consultation is Self-Managed Superannuation Funds (SMSFs). SMSFs are established as a trust, with two trustee structure options – individual trustees (where members are the trustees) or a corporate trustee (a company acting as trustee for the fund). Under a corporate trustee structure, each member of the SMSF must be a director of the corporate trustee and bound by the same requirements and obligations as company directors of other business structures. Corporate trustee SMSFs are increasing, reflecting 88% of funds established in 2022-23 and overall, 70% of all active SMSFs are corporate trustees (ATO, Self-managed superannuation funds: A statistical overview 2022-23).

The nature of SMSFs creates opportunities for domestic and family violence (DFV), coercion and financial abuse, where members are also trustees responsible for decision-making of the fund. The trustee structure can be a vector for coercion in situations where control of the SMSF sits with a spouse or adult child. This is coupled with minimal oversight within a lower regulation environment.

SMSFs now represent almost a quarter of the Australian superannuation sector (over $1 trillion in assets) with over 1.2 million members (as at June 2025, ATO). With this growth, the community sector is also seeing increasing use of SMSFs as a tool of financial abuse, often involving other business structures and complex tax and legal issues. Financial abuse via SMSFs can include:

- Perpetrators pressuring victim-survivors (VSs) to transfer super from an industry or retail fund into a joint SMSF to gain coerced or unauthorised (fraudulent) access to the VS's super.
- SMSFs used to bind VS into trustee or directorship roles either through coercion or without their knowledge or consent (similar to the issue of coerced directorships in companies).

Case study 3 – Coerced directorship in a SMSF (UNSW Tax and Business Advisory Clinic)

Amy's husband coerced her to sign documents without reading them, and sometimes applied her signature to forms electronically using a fake email he had set up in her name. A Director Penalty Notice was issued for a company along with penalties for a non-compliant self-managed superannuation fund she was unaware of until after her husband deserted the family and she began receiving notices. All income tax returns were prepared by a tax agent and signed electronically without her knowledge. She had never met or spoken to this tax agent. All refunds and Centrelink receipts went directly to her husband's bank account, who is now declared bankrupt.

False director disbursements and remuneration

Perpetrators report fictitious "director disbursements" or "director fees" to the ATO that are never actually paid to victim survivors. This creates cascading harm when Services Australia cancels income support based on ATO-reported earnings the victim survivor never received, pushing them into poverty; the ATO pursues tax on phantom income; and perpetrators pocket the actual cash. Even if a victim survivor is successful in seeking to have their directorship annulled (discussed later in this submission), the annulment does not automatically reclassify these fabricated earnings, which remain on the victim survivor's tax records. Attempting to amend records triggers repayment demands for previously claimed tax concessions (such as franking credits and small business offsets), creating further debts from the original abuse. This leaves victim survivors trapped between tax on income never received and penalties for correcting fraudulent records, while perpetrators face no consequences.

Registered office address manipulation

Perpetrators control where the company correspondence is directed, either to the victim survivor's address, company accountant's address or other address. This ensures all regulatory correspondence goes to the perpetrator-controlled address, preventing the victim survivor from learning of their exposure to liability until enforcement action commences. Perpetrators avoid creditor or debt collector recovery action by masking their actual address with that of the victim survivor, who is harassed and pursued instead of the perpetrator who has incurred the debts.

Insolvent trading claims

Perpetrators deliberately structure insolvent trading to maximise their financial opportunities and the victim survivor's liability. Perpetrators continue trading while insolvent, accumulating debts that trigger director liability under s 588G of the *Corporations Act 2001* (Cth) (Corporations Act). Coerced directors have no access to financial records, no knowledge of the company's financial position, and no participation in the decision as to whether to continue or cease trading. Upon company failure, liquidators pursue the coerced director for insolvent trading claims, often resulting in settlements or bankruptcy to avoid litigation costs that exceed the victim survivor's entire asset base.

2. What types of debts, liabilities or harms are typically created through coerced directorships?

Debts and liabilities

Victim survivors of financial abuse through coerced directorships typically present to support services with a range of debts and liabilities, including:

- Outstanding business liabilities to creditors under supply contracts, company car leases, tenancies for commercial premises, utilities debts for commercial premises, AusPost business accounts, etc. These are typically personal liabilities in the victim survivor's name, by way of personal guarantees that have been signed via fraud or coercion, and typically include significant enforcement and legal costs due to corporate creditors' high appetite for debt collection;
- Fines, tolls and state-based charges attached to any company cars. For example in NSW, a company director may be personally fined for failure to nominate the driver of a car registered in the company's name (in addition to the fine issued to the company);
- Tax liabilities to the Australian Taxation Office (ATO) for the company's unpaid tax;
- Where there is an SMSF, additional liabilities and penalties from the ATO for non-compliance of SMSF rules including enforceable undertakings, administrative penalties, additional tax liabilities and potential civil and criminal penalties;
- Tax liabilities to the ATO for which the victim survivor is personally liable, typically due to Director Penalty Notices for unpaid superannuation guarantee charges, GST and PAYG withholding, and liability for previously claimed tax concessions when fraudulent accounts are amended;
- Tax liabilities for proceeds of company tax fraud that have flowed through a joint bank account held with the perpetrator;

- Insolvent trading claims under s 588G of the Corporations Act;
- Claims for breaches of other directors' duties under the Corporations Act and at common law;
- Other company liabilities that may be attributed to the victim survivor as director if left unpaid, such as workers compensation;
- Potential civil and criminal penalties and compensation orders as a result of prosecution under the Corporations Act; and
- Bank accounts garnished, sometimes without notice, by the liquidator as a claim against director assets. The victim survivor may only discover the garnishee order when they go to pay for groceries and find their funds have been taken.

Each reports the majority of referrals to their service now come from private lawyers whose clients cannot afford the legal fees to resolve the financial abuse.

Piercing the corporate veil and making directors liable for additional company debts is also a theoretical possibility under Corporations Act claims, although what our members more commonly see in practice is liquidators making claims against directors for transactions to defeat creditors. See Francesca's case study in our response to **Question 21**.

Harms

The harms caused by coerced directorships extend beyond financial harms and often well beyond the end of the relationship. These harms often arise due to the intersection with other legal and government systems, including:

- Bankruptcy, which is often the only pathway available to victim survivors with insurmountable business debts due to the lack of free support services in Australia, with associated consequences such as (currently) a lifetime listing on the National Personal Insolvency Index, travel restrictions, inability to secure rental housing, loss of employment (see the case study below) and loss of standing in family court proceedings;
- Homelessness, particularly if the family home is seized or sold to pay off business debts;
- Prohibition from managing companies in future, either as an undischarged bankrupt or due to prosecution under the Corporations Act;
- Impaired credit score and credit report, impacting the victim survivor's ability to access mainstream credit in future and often pushing them towards high-cost credit (such as payday loans and pawnbrokers) with fewer consumer protections and higher interest rates and fees. Inability to get credit can impact all aspects of a victim survivor's life, such as being unable to get a new phone contract, which can cause safety issues and limit their ability to access support services;
- Ineligibility for social security payments due to the company's assets and liabilities being included in the assets test, or due to the perpetrator or their accountant fraudulently reporting income from the family business despite the victim survivor receiving no funds, or impediments to application for benefits where access to financial records is a requirement of the application (see, for example, Services Australia's Private Company form MOD PC);
- Inability to obtain their fair share of assets through a family court property settlement, as a bankrupt victim survivor may lose standing to seek property settlement orders in the Federal Circuit and Family Court of Australia;
- Long-term health and wellbeing impacts such as stress, PTSD, parenting problems, suicidality, exacerbated mental and physical health issues;

- Poverty and ongoing financial hardship;
- Entrapment in an abusive relationship where the victim survivor is financially prevented from being able to leave, or they return to the relationship due to financial dependency; and
- Emotional harms such as shame, embarrassment, distress and powerlessness.

For more detailed qualitative evidence, see Vivien Chen and Jasmine Opdam, Coerced Business Debts: Uncovering Hidden Harms from Economic Abuse, 2025.

Case study 4 – Impacts of bankruptcy due to coerced directorship (Consumer Action Law Centre)

Madison* was referred to a financial counselling service from the Federal Court Bankruptcy List. She was served a creditor's petition alongside her ex-husband. Madison had experienced family violence and economic abuse in the relationship. Madison did not understand why she was wrapped up in the creditor's petition for a secured business loan that her ex-husband had taken out. She told the financial counsellor that she was physically and emotionally exhausted by the legal process.

Madison did not have the resources to fight the underlying judgment. She did not own any assets that would vest in the trustee in bankruptcy and her income was beneath the bankruptcy threshold. However, bankruptcy would impact Madison's license for her job. Put simply, she would not be allowed to work in her current role if she was sequestered. Madison said she would try to negotiate with her employer to move into a different team if this occurred.

B. The director appointment process

3. How is the director registration or appointment process being weaponised by perpetrators of domestic and family violence to coerce victim-survivors into becoming directors of a company?

Online company registration processes can be manipulated by perpetrators who provide email, phone and mailing addresses that they control but the victim survivor cannot access. Consequently, correspondence is sent to the perpetrator but victim survivors do not receive notices. Current company registration and director appointment processes do not have strong protections against coercion. These processes have historically been set up to prevent fraud and anti-money laundering and counter-terrorism financing (AML/CTF) risks, and are not fit for purpose for preventing coercion and abuse.

The introduction of Director ID requirements has not removed fraud and coercion from the director appointment process. Our members observe that where the company in question was incorporated prior to the introduction of Director ID requirements, many coerced directors still do not have a Director ID, with apparently very few consequences.

Although the Director ID application process requires verification and has stronger safeguards against fraud than the company registration process, these can be (and are) manipulated. The Consultation Paper asserts that the Director ID verification process makes it "difficult for perpetrators to fraudulently register directors without their consent" (page 7), however this is not the case when perpetrators can easily imitate the victim survivor throughout the verification process:

- The online application process for a Director ID requires applicants to take a photo of themselves as a form of biometric verification. However, like all of the application processes, there is nothing preventing a perpetrator nominating an email address in the victim survivor's name that the perpetrator controls (and that the victim survivor has no knowledge of), and continuing to use that email address to imitate the victim survivor.
- The phone application process involves asking questions of the director to verify their identity, which has some built-in safeguards, but is still susceptible to manipulation by a perpetrator who may be physically present with the victim survivor and coercing (through physical or other threats) the victim survivor to respond to questions and comply with the process. To mitigate this risk in other settings, staff in banks are trained to identify warning signs of financial abuse, such as when the customer 'appears to be taking instructions from someone else whilst dealing with branch staff or talking to the bank over the phone'.[1]
- The paper application process, in particular, is susceptible to fraud and misuse by perpetrators to register victim survivors as directors without their knowledge or consent, as it relies on static identity documents. Perpetrators can produce certified true copies of identity documents required as part of the paper application process with the help of professionals who assist with the business, without the victim survivor's knowledge or consent. Perpetrators typically have access to the victim survivor's identity documents, particularly if they are still in a relationship and co-habiting, so this process provides very little protection against identity fraud.

It is well established that professionals have taken instructions from perpetrators and facilitated financially abusive arrangements (see Adrienne Byrt, Kay Cook, Rachael Burgin and Georgina Dimopoulous, Mapping Intimate Partner Financial Abuse Across Public and Private Systems, *Australian Journal of Social Issues*, 2025; Vivien Chen and Jasmine Opdam, Coerced Business Debts: Uncovering Hidden Harms from Economic Abuse, 2025).

Even with the minimal safeguards in the online and phone application processes, victim survivors can be coerced, harassed and intimidated into providing the information and facial verification required, as noted above. Perpetrators exploit the consent document process through multiple fraudulent mechanisms:

- **Fraudulent appointment:** Signatures are forged on ASIC Form 484 (Consent to act as a Director), 'consents' are emailed without intermediaries verifying the signatory's identity, independence or consent, or perpetrators send the emails from an email account in the victim survivor's name that they control.
- **Coerced signing without understanding:** Perpetrators use coercive control and domestic violence behaviours to obtain the victim survivor's signature on consent documents. Victim survivors are told 'just sign here' without being given an opportunity to read or understand the document's significance or obtain independent advice. Physical violence or threats of violence, financial harm, or harm to children may directly precede the signing. The signature is technically present but obtained under duress that invalidates any genuine consent.

[1] See the Australian Banking Association's Industry Guideline on Preventing and responding to financial abuse (including elder financial abuse) (2021) at page 3.

- **Forced signing with full knowledge:** In some cases, victim survivors understand they are signing director consent forms but are coerced through economic abuse, threats of isolation or deportation (where the victim survivor is not a citizen or permanent resident), misleading statements exploiting the victim survivor's limited knowledge of Australia's corporate and tax system, or exploiting relationship bonds and care responsibilities. Whilst informed of what they are signing, the victim survivor is typically misled as to the extent of their responsibilities and liabilities as a director and given a false reason for signing.

For detailed consideration of how victim survivors are coerced into being appointed directors of a company or otherwise liable for company debts, see Vivien Chen and Jasmine Opdam, Coerced Business Debts: Uncovering Hidden Harms from Economic Abuse, 2025 at pages 5 to 8.

The current consent process fails to prevent coercion because of:

- **No independent witness requirement:** Signatures can be provided without any neutral third party verifying the signatory's identity or understanding of what they are signing.
- **No capacity assessment:** No mechanism exists to assess whether the signatory understands their director responsibilities or has independent access to company information.
- **Email-based verification vulnerability:** Director ID and ASIC registers use email verification, but perpetrators routinely control victim survivors' email accounts and use them to impersonate the victim survivor.
- **Professional intermediaries:** Accountants and lawyers may lack knowledge of coercive control and financial abuse and may unwittingly facilitate appointments, and their involvement creates a veneer of legitimacy that obscures coercion.
- **No confirmation of consent:** ASIC and ATO accept Director ID and director consent documents without confirming the individual consented to the application or appointment.

4. How can the director registration or appointment process be strengthened to prevent or mitigate the risks associated with coerced directorships?

The director registration or appointment process could be significantly strengthened through a variety of measures such as:

- Increasing community education about director responsibilities and liabilities, highlighting the consequences, costs and potential risks of director appointments;

- Improving transparency of business registers by displaying Director IDs and information from ATO and ASIC databases on myGov accounts, with prompts to learn more about director responsibilities or correct inaccurate information;

- Mandating information statements in commercial credit contracts, similar to those required for consumer credit contracts and personal guarantees;

- Requiring accountants, tax professionals and financial planners to speak to a client's spouse separately where coercion may be present, as is considered standard practice within the banking and insurance sectors;[2]
- Requiring consent documents to be witnessed by a qualified independent witness, with family members, business associates, or persons with a financial interest in the company explicitly prohibited from acting as witnesses.
- Addressing system vulnerabilities allowing perpetrators to imitate victim survivors in the director appointment process (e.g. introducing real-time identity verification and detecting the use of false email addresses).
- Flagging if a director's listed address is different to their individual tax record address.
- Providing an automatic notification to the appointed director at a verified contact point (separate from the company's contact details) for any changes to appointments or liabilities (Verified personal contact ensures that directors receive critical notifications directly, reducing the risk of perpetrators intercepting or concealing information through company-controlled channels. This safeguard helps prevent fraudulent appointments and enables timely action to stop financial abuse and coercive control.

Recommendation 4: Introduce significant safeguards and real-time identity verification to each of the Director ID application processes, particularly the paper application process which relies on static identity documents and is susceptible to fraud and misuse by perpetrators of financial abuse.

Recommendation 5: Introduce an additional step in the Director ID or director appointment process to verify the contact details of the person appointed, contact the person appointed and confirm they are aware of and consent to the appointment.

Recommendation 6: Implement automatic alerts to a director's verified personal contact (not company details) for any changes to director appointments or penalty notices.

Director ID linkage as an early detection tool

Many victim survivors do not realise they have been appointed the director of a company controlled by the perpetrator until they check their credit reports, a creditor obtains judgment against them or seeks to make them bankrupt, or the ATO pursues them for unpaid tax liabilities attached to the business. To find out whether they are currently (or have been) the director of a company, they must pay for a current or historical ASIC Company Extract (currently $10 and $20 respectively online) for each entity they are aware of. If they do not know the company name but suspect they have or have had a directorship role, they can contact the Australian Business Registry Services for a free name search. Unfortunately, this service is not advertised and is a relatively unknown service. For full details, a victim survivor must pay for a current and historical personal name extract (currently $26 via ASIC by mail only, or up to $51 via third party providers). ASIC is obliged to charge fees for some products under the *Corporations (Fees) Regulations 2001* (Cth).

[2] Australian Banking Association, Industry Guideline on Preventing and responding to financial abuse (including elder financial abuse) (2021); Australian Financial Complaints Authority, The AFCA Approach to Family Violence (2025).

Obtaining these documents is a necessary step for screening for financial abuse and beginning to unwind and resolve financial and legal consequences, but is prohibitive for many victim survivors. Support services that assist victim survivors, such as community legal centres and financial counselling agencies, are not funded to pay for disbursements such as ASIC search fees yet, unlike journalists, do not qualify for fee-free access to information on the company register.

Linking Director IDs to myGov would play a preventative role by alerting victim survivors to any fraudulent or coerced directorships in their name (either current or historical) and giving them and their advocates an opportunity to take steps to correct the company register before they incur further financial and taxation consequences. This also offers an opportunity to increase community awareness of directors' duties and obligations, and the consequences of non-compliance, particularly where the director appointment process has been handled by an intermediary and the individual has not been adequately informed of their obligations.

Recommendation 7: Comprehensively display information related to company directorships and business structures from ATO and ASIC databases in myGov accounts.

Recommendation 8: Make support services such as financial counselling agencies and community legal centres eligible for fee-free tiered access to the Australian Business Registry Services (ABRS) Director ID system and information on the Companies Register.

Improving safeguards in the company registration process

The Consultation Paper references improving safeguards in company registration processes "to ensure persons appointed or recorded as directors have provided their full and informed consent" (page 11), however there is limited detail of this process in the paper. The directorship and company registration processes are closely linked and should be considered together when identifying safeguards to prevent coerced directorship. For example, if there are deficiencies in the Director ID application process, stronger safeguards and friction in the company registration process could provide a final opportunity to detect fraud and coercion at the point of incorporation, where a director (with their Director ID) is appointed officeholder of the new company. Currently, any deficiencies or identity fraud in the Director ID application process will be carried through to the company registration process.

Recommendation 9: Introduce safeguards into the company registration process to detect and prevent fraud and coercion and correct any deficiencies in the Director ID process.

Maintaining wet signatures on consent documents

Physical signatures on original director consent documents must remain mandatory. Wet signatures provide forensic evidence when fraudulent appointments are challenged. In our members' casework, handwriting analysis of original consent forms has successfully proven the existence of fraud. Electronic signatures are too easily manipulated by perpetrators with access to victim survivors' devices and accounts. Companies and their agents must retain original signed documents for the entire period a person is a director, plus seven years, which assists victim survivors and their advocates to eventually obtain evidence of fraud. However, current practice allows digital storage only, which facilitates document manipulation.

C. Pathways for director removal and resignation

5. What are the limitations of the current removal processes for coerced directors and how could these be addressed to better support coerced directors seeking to be removed from the Companies Register?

Of the three director removal processes outlined in the Consultation Paper, two processes result in the annulment of the company directorship as if it was never in force (the court process and ASIC's administrative process), leading to any associated corporate and tax liabilities being withdrawn, while the third process results only in the removal of the company directorship from the date of resignation, with no effect on historic corporate and tax liabilities. It is important to differentiate between annulment and removal and the consequences of each, including by using specific terms or definitions where relevant, to avoid conflating these as 'director removal processes' with the same impacts. No process is void of safety risks to victim survivors.

Court process for director annulment

The option of seeking a court order for the rectification of the Companies Register under s 1322(4)(b) of the Corporations Act is inaccessible to almost all victim survivors due to a lack of awareness and lack of access to legal assistance. Court proceedings are prohibitively expensive for victim survivors and place the onus on the victim survivor to prove, beyond a reasonable doubt, that they were coerced into the directorship, in circumstances where they typically have no access to company or financial documents by virtue of having experienced coercive control and having had company records withheld by the perpetrator and intermediaries. The process to collect information and present complex evidence while managing trauma, potential homelessness and long hearing wait times, can extend out to 2 years. During this time, liabilities continue to accrue and penalty timeframes are missed. This court process should not be considered a feasible pathway for removing coerced directors from the Companies Register.

Family court treatment of coerced directors

Family law practitioners and courts have limited understanding of coerced directorships. Family law proceedings can only result in orders for the parties to take the necessary steps to effect a director resignation or removal (the third option described in the Consultation Paper at page 8), but cannot address historic liability, so victim survivors remain liable for debts incurred during the directorship despite removal. Orders requiring parties to sign necessary documents are difficult to enforce when the perpetrator refuses to comply, or companies are in liquidation.

The Federal Circuit and Family Court's focus is on property division, not director liability, often leaving victim survivors as sole directors of failing companies after share transfers. Property settlements treat company shares as assets to divide, ignoring the liability dimension, so often perpetrators retain shares while victim survivors remain directors with liability. Share transfers do not automatically remove directorship, requiring separate action often not contemplated in consent orders. Financial abuse through companies is rarely identified during proceedings, so protective provisions are omitted from consent orders.

Undisclosed debts may emerge after settlement has been finalised, with no recourse to adjust the property division; while the court has the ability to reopen a finalised property settlement under section 79A of the Family Law Act, it is only permitted in limited situations upon leave from the court (for example, for a miscarriage of justice due to fraud, duress or significant non-disclosure) and requires substantial evidence to prove. Finally, Director Penalty Notices and insolvent trading claims typically arise 1-3 years post-separation, which may fall outside the property settlement timeframe.

ASIC administrative process for director annulment

This leaves victim survivors with the only option of using ASIC's administrative process to seek an annulment of their directorship (the Form 377 process), because the third option provided in the Consultation Paper at page 8 (resigning by written notice to the company) will not retrospectively remove any company or tax liabilities, even if it is safe for the victim survivor to resign. However, there is a distinct lack of understanding of the ASIC Form 377 process to remove non-consenting directors from the Companies Register, both within the legal assistance and community sectors and even within ASIC itself, and the form is unavailable to most victim survivors due to lack of awareness.

Inconsistency in ASIC administrative process

Redfern Legal Centre has found using the Form 377 process to be an arduous and overwhelming experience for clients. In practice, many victim survivors who have been coerced into directorships submit detailed letters explaining their circumstances, yet ASIC frequently fails to follow its own policy of issuing a Form 377 to the victim survivor for completion. Attempts to obtain clarity through ASIC's call centre routinely result in inconsistent and contradictory advice, with different operators giving different instructions, and many operators being unfamiliar with the Form 377 process or outright denying that annulment of a directorship is possible. Clients are often told to purchase multiple company extracts at different intervals, at their own cost, to determine whether an annulment has been processed, as ASIC does not reliably notify them when the matter is finalised. This creates significant distress for already vulnerable, financially unsophisticated clients, who are experiencing high levels of anxiety and trauma after being fraudulently appointed as directors by abusive current or former partners. Redfern Legal Centre has multiple case examples where staff have had to escalate, resubmit, and follow up with ASIC repeatedly before an annulment is finally completed, highlighting systemic issues in the accessibility and reliability of the process.

Weaponisation of ASIC administrative process

The Form 377 process can also be weaponised by the perpetrator of financial abuse or intermediaries such as accountants and tax agents, as it gives them the opportunity to control the narrative in communications with ASIC. The process poses safety risks for victim survivors, as ASIC sends correspondence to all last-known registered addresses of the company. In many cases, these addresses are those of the perpetrator or their associates, meaning that ASIC's notifications can inadvertently alert an abusive partner that the victim survivor is attempting to remove themselves from the Companies Register. This contact can be highly unsafe, potentially escalating the risk of further harm, as the perpetrator may perceive the annulment attempt as a provocative act or a sign that they are losing control.

Case study 5 – Safety risks of using ASIC director annulment process (Redfern Legal Centre matter 214296)

Sara* had been separated from her husband Remy* for about three years when she received an overdue reminder notice from ASIC for failing to pay fees for a company. She had never heard of this company and didn't understand why she was getting the letters, so she contacted Redfern Legal Centre's Financial Abuse Service.

RLC assisted Sara to complete personal name and company extract searches. The company appeared to be associated with her ex-husband, and it showed she had been appointed as the sole director of the company two years prior. She had never signed any documents related to this company and the date of appointment was after the breakdown of her marriage, but she could not see any other option than that Remy had forged her signature and appointed her a director of the company.

Receiving the notices from ASIC caused a lot of distress for Sara, as she felt very scared she was going to face penalties and legal consequences. After receiving the searches, she reported feeling very violated that she had been signed up to the directorship without her knowledge or consent.

RLC helped Sara draft a letter to ASIC applying to annul her directorship on the basis she had never consented to her appointment, and helped her submit a Form 377. This is the only process available to Sara to annul her directorship and retrospectively unwind the legal and tax implications of the directorship without commencing costly and time-consuming court proceedings, but it involves ASIC contacting all the last known registered business addresses and asking the company to provide proof of consent of the directorship. This posed a serious safety concern for Sara as Remy had a significant history of violence against her. Sara was concerned that this potential tip-off that she was attempting to alter the company's records could have caused Remy to retaliate and endanger her safety. Sara was required to weigh up her personal safety against her financial safety, and undertake safety planning to settle on a decision to go ahead with the ASIC process.

Length of ASIC administrative process

The Form 377 process, while less costly and time-consuming than the alternative court process, is not a quick or easy solution to coerced directorships. In our members' experience, it can take up to two years for a coerced director to gather the evidence (for example, from liquidators and other creditors) necessary to satisfy ASIC that they did not consent to the directorship and obtain an annulment. This is highly problematic when the current DPN regime requires a coerced director to mount a defence to a DPN within 60 days. See Christine's story below.

Evidentiary requirements of ASIC administrative process

While ASIC's non-consenting director removal process appears accessible, in practice it fails for coerced directors. ASIC requires proof that consent was never given. Where a signature exists, even if forged or obtained under duress, ASIC typically declines to remove the director without a court determination. As ASIC's position is that only courts can determine whether coercion occurred, this circular reasoning leaves victim survivors with no accessible administrative pathway. ASIC requests evidence from companies controlled by perpetrators, who unsurprisingly provide 'evidence' of valid consent including the forged documents in question. If the company is in liquidation, the appointed liquidator stands in the shoes of the company and, in lieu of presentation of the consent to be a director document, can present any document with the victim survivor's signature as director as evidence.

The victim survivor is not given an opportunity to view their signature on the consent document or other evidentiary documents to determine if it is fraudulent, prior to receiving a decline outcome from ASIC. The ASIC letter declining the annulment application only includes information to resign as an office holder or seek legal advice to resolve the dispute with the company, its officeholder or members. No further information is provided to make a Freedom of Information (FOI) application to view the documents that ASIC relied on to validate their signature, or how to appeal ASIC's decision. When enquiries have been made to ASIC to obtain the documents submitted, responses have been mixed, from statements that the documents cannot be released due to privacy restrictions, or suggestions to make an FOI application to the ATO or make an FOI application to ASIC.

If an annulment application is declined, the only relief for victim survivors is through defences to specific liability claims, which is a piecemeal, expensive process requiring separate proceedings for each ATO, liquidator and creditor claim.

Recommendation 10: Empower ASIC to make preliminary determinations of coercion based on statutory declarations and supporting professional evidence, subject to review. Where a company directorship is annulled due to coercion, ASIC can provide statutory protection from liability to directors while third parties retain rights against the company and shadow directors.

Recommendation 11: Create a trauma-informed director removal pathway via ASIC and Director ID cancellation via ABRS, that accepts statutory declarations supported by evidence from professionals (e.g. police, domestic violence services, financial counsellors, community lawyers) as sufficient proof of coercion, and does not require victim survivors to notify the perpetrator or registered officeholders before removal.

Case study 6 – Evidence produced by liquidator in response to ASIC Form 377 process (Each)

Christine* was made a director without her consent of multiple companies by her ex-husband, Ray*.

Each was already assisting Christine to be released from company loans and guarantees and applied to ASIC for her directorships to be annulled through the Form 377 process. The annulment application was declined.

A Freedom of Information (FOI) request revealed that since the companies were in liquidation, the request was directed to the appointed liquidator. Although the original consent documents could not be found, 15 documents bearing Christine's signature as director were presented as evidence. These included coerced and fraudulent signatures, such as those of a lawyer acting as a witness to loan and guarantor agreements obtained from creditors that the liquidator owed a duty to. Christine was unaware of two loans, as they were not recorded elsewhere.

It took two years of work by Christine's financial counsellor at Each, and teams of pro bono lawyers, to secure her release from these 15 loan agreements, most with unregulated creditors. An appeal was then made to ASIC to set aside the submitted documents. The appeal succeeded, and Christine's directorships were annulled.

6. Are there any unintended consequences of allowing coerced directors to access the existing process for the removal of non-consenting directors, particularly in the context of protecting the rights of third parties engaging with the company in good faith?

It is critical for the integrity of our corporate and tax system that third parties are able to transact with companies in good faith, trusting that the individual they are engaging with is in fact the ‘controlling mind’ of the company. This is why streamlining processes for coerced directors to be removed from office, and ensuring that the Companies Register accurately reflects the true directors of the company, would improve procedural fairness for victim survivors and protect the rights of third parties.

At present, perpetrators who control companies are de facto directors. De facto directors are liable for misconduct under existing corporations law to the same extent as properly appointed directors. Liquidators can seek recourse against de facto directors and recover assets wrongfully diverted e.g. under s 588FDB (creditor defeating dispositions) and s 588FB (uncommercial transactions) of the Corporations Act. However, in our experience, this avenue is not usually pursued. Seeking redress from de facto directors who had actual control over the company is also more likely to enable investigators to follow the money trail. Victim survivors who were excluded from management decisions usually have little or no access to financial information relating to the business, and do not know how corporate assets have been diverted.

The Consultation appropriately raises concerns about third parties relying on the Companies Register. However, third party due diligence should include risk assessment beyond register checks. Financial institutions, suppliers and landlords already conduct independent credit checks, financial assessments and reference verification. Sole reliance on the Companies Register reflects inadequate due diligence, not system failure. Third parties should not be able to rely on the Companies Register in 'good faith' when they have ignored clear red flags of coercion or fraud. Each frequently sees banks, creditors, landlords and suppliers who never met or spoke with the coerced director despite requiring their personal guarantee, then accepted personal guarantees where all correspondence was sent via the acting director, and proceeded with transactions despite the coerced director having no apparent involvement in or benefit from the business.

Third parties already face risks from coerced directors. Perpetrators who control companies without being listed as directors already undermine the reliability of the Companies Register. An accessible removal process for coerced directors would improve third party protection by ensuring the Companies Register accurately reflects who truly controls the company

To protect the rights of third parties engaging with the company in good faith, the reforms could expressly state that liquidators or authorities investigating the affairs of the company should seek redress from perpetrators who were the company’s de facto directors. We refer also to our response to **Question 21** and Francesca’s case study.

Recommendation 12: Ensure that reforms expressly state that liquidators and authorities investigating the affairs of the company should seek redress from the perpetrator as the company’s de facto director.

7. What are the consequences of enabling resignation of a sole director who is subject to a coerced directorship? Would deregistration or winding up of the company help limit adverse consequences?

While resignation removes the director from the Companies Register from the date of resignation, it does not address liability for the period they were listed as a director. Liquidators and creditors pursue claims based on historical directorship at the time the debt was incurred. Without annulment of the historical directorship record, resignation achieves very little protective benefit in most cases. The legislation must expressly provide that where coerced directorship is established, the individual is deemed never to have been validly appointed, with retrospective effect on the public record. The exception would be where a director is seeking removal only for a specific period where coercion occurred.

If a sole director resigns and the company is deregistered, the victim survivor loses critical access to financial records necessary to defend against creditor claims or demonstrate they never controlled the company, including company correspondence and emails that could prove the perpetrator's control of the company, and transaction records showing the flow of company funds that demonstrate they never benefited from the business.

When a sole non-consenting directorship is annulled, the company remains on the Companies Register without a director until the natural deregistration process occurs. A process to remove companies without a director would keep the register clean and remove misleading information.

Deregistration and winding up of the company have fundamentally different implications for coerced directors. Voluntary deregistration by ASIC typically occurs where a company is no longer trading and has no outstanding liabilities. It does not address existing debts or liabilities which 'sleep' and can be revived if the company is reinstated, and it provides no investigation of the company's affairs or shadow director conduct. If the ATO makes a claim against the coerced director after resignation, currently the company needs to be reinstated to deal with the Director Penalty Notice, which is an expensive court process.

Winding up or liquidation involves the appointment of a liquidator who investigates the company's affairs and can identify and potentially pursue shadow directors for insolvent trading or breach of directors' duties, while also providing a formal process for dealing with creditor claims and distributing any remaining assets. It does create a definitive end point as once fully wound up, the company ceases to exist and cannot be revived. However, the cost for liquidation varies between $6,000-$15,000 at minimum, which typically neither the victim survivor nor the company has capacity to fund.

Sole coerced directors face an impossible situation: voluntary deregistration requires all directors' consent and proof of no liabilities, while voluntary liquidation requires a director's resolution and liquidator fees. The coerced director cannot make this resolution alone as it requires shareholder approval, has no access to company funds, and no personal funds to pay the liquidator. Creditor-initiated winding up happens only when a creditor petitions the court, which takes 6-18 months, during which the coerced director remains liable for debts.

Sole directors should be able to resign directly to ASIC where coercion is established. Before resignation takes effect, company records should be secured and preserved, providing the former director with complete copies to use in defending against any future liability claims, and providing statutory protection that resignation in these circumstances cannot be used as evidence of wrongdoing or abandonment of duties by the resigning director.

ASIC should make winding up orders where a sole director has established coercion and seeks to resign, but the company is insolvent or not actively trading and the regulator has reasonable grounds to believe a shadow director is operating the company. This would remove the financial barrier for the victim survivor (as ASIC funds the liquidation) and enable independent investigation by the liquidator, pursuit of shadow directors and recovery of assets they have hidden or transferred. The liquidator's report may assist victim survivors in defending liability claims and prevent perpetrators from continuing to use the corporate structure for further abuse or fraud.

ASIC should deregister the company if satisfied it has no assets or ongoing liabilities.

Implementing a 'flagging' system on the Companies Register during the removal investigation period could alert and protect third parties to a disputed directorship without premature removal from the Companies Register.

See our recommendations in response to **Question 8**.

8. Does the proposed expansion of removal and resignation pathways adequately manage the risk of perpetrators retaliating against victim-survivors for accessing these pathways?

Safety risks often arise when a victim survivor takes steps that 'tip off' the perpetrator that they are seeking information about their financial or business affairs, engaging with a regulator or third party (such as a liquidator or creditor), or seeking to correct information which may expose the perpetrator as the de facto director of the company and result in the perpetrator being held personally liable for the company and its debts.

Our members observe that in other settings, such as financial services, essential services and traffic fines, safety risks to victim survivors are often minimised by action being taken by a third party ostensibly of its own volition, with no indicator that they were 'tipped off' or that the process was initiated by the victim survivor. Examples include:

- Secured car loans, where a creditor repossesses a vehicle in the perpetrator's possession to fulfil an outstanding debt, rather than requiring the victim survivor to locate and surrender the vehicle;
- Traffic fines, where the state roads authority indicates their own investigations have revealed the perpetrator was the driver of the car and reassigns the fine to the perpetrator, without mentioning any contact from the victim survivor; and
- Systems within financial service providers and essential service providers where victim survivors' records are flagged to prevent any contact at perpetrator-controlled addresses or through perpetrator-accessible channels.

We support reforms that place the burden of investigating and correcting the Companies Register on ASIC, rather than the victim survivor, and that allow a coerced director to resign by application directly to ASIC (which would then inform any co-directors) rather than requiring the victim survivor to engage directly with the perpetrator and/or professional intermediaries.

Any reforms to director annulment, resignation and removal pathways must also consider:

- **Technology facilitated abuse:** Perpetrators often have access to victim survivors' email, social media and cloud storage. All ASIC communications must be available through in-person or telephone channels that do not create digital records perpetrators can access.
- **Cultural considerations:** Some victim survivors face community pressure not to make formal complaints or take legal action against family or community members. Removal processes must be accessible without requiring victim survivors to make characterisations of the perpetrator's behaviour in culturally specific ways.
- **Immigration implications:** For visa-dependent victim survivors, any interaction with government agencies can create fear of visa consequences. ASIC must have clear protocols preventing any information-sharing with immigration authorities that could be used against victim survivors.

Recommendation 13: Require ASIC to remove non-consenting directors from the Companies Register, including deregistering or winding up companies that do not have a duly appointed consenting director, at no cost to the victim survivor.

Recommendation 14: Allow coerced directors to resign directly by application to ASIC, instead of to the company, to remove the need for victim survivors to engage directly with the perpetrator and/or professional intermediaries.

Recommendation 15: Ensure that communications from ASIC to any co-directors or professional intermediaries about corrections to the Companies Register indicate these corrections were initiated by ASIC rather than the victim survivor.

D. Strengthening defences for insolvency-related directors' duties

9. Are there any unintended consequences associated with strengthening defences to insolvency-related directors' duties to explicitly include experience of coercive control as a reason for not taking part in the management of the company?

Defence must apply more broadly than to insolvency-related directors' duties

Expressly mentioning coercive control in the s 588H defences is a welcome reform, however one limitation is that the defence applies to a rather narrow subset of cases. Insolvent trading (s 588G) is only one of several provisions under which coerced directors could be pursued. There are many other situations where victim survivors are pursued for business debts which are not related to insolvency.

Coercive control must be recognised as a valid defence to other forms of business-related liabilities that victim survivors are exposed to as well, for example as a standalone cover-all defence for relief from liability in circumstances of coercive control, not just as a defence to insolvency-related directors' duties. Limiting the defence to insolvent trading claims will leave loopholes that can be exploited by perpetrators. The Government should not assume that there is a low risk of coerced directors being held liable for breaches of other duties or being pursued by liquidators under the claw back provisions.

Thankfully, s 588H defences also apply to the new provisions that hold directors liable for phoenix activity (s 588GAB). However, any reforms will also need to address:

- **Claw back provisions (introduced in tandem with s 588G in the 1980s):** Liquidators can recover assets that have been siphoned off under certain circumstances e.g. uncommercial transactions (s 588FB), unreasonable director-related transactions (s 588FDA) and creditor-defeating dispositions (s 588FDB). The court can make orders against a party who has received the assets: s588FF(1) e.g. requiring the person to compensate the company. To protect victim survivors who are coerced into any of these transactions, s 588FG should be amended in parallel with s 588H to introduce a defence of coercive control and provide for liquidators to go after the de facto director or person responsible for these transactions.
- **Broader directors' duties:** Coerced directors could also be pursued for breaches of their duty of care, skill and diligence, or the duty to act in good faith and in the company's best interest. Liquidators, the company and shareholders through derivative actions can institute proceedings and seek compensation for loss which can involve significant amounts. Section 1317S could be amended to specify coercive control as a ground for relief alongside the other grounds for relief. We consider this is preferable to amending s 1318, which is a broad provision and does not lend itself well to specific grounds or defences.

Amending s 1317S would ensure the defence would apply to other breaches of directors' duties under the Corporations Act rather than only insolvent trading, such as in relation to the s 180 obligation of care and diligence which is "inextricably linked" with the duty to prevent insolvent trading under s 588G (*DCT v Clark*). Liquidators could have more success suing directors under s 180 when compared with s 588G (see Hargovan, A (2018) 'Liquidators loss of insolvent trading claim under s 588G(2): Mansfield v Townend', *Insolvency Law Bulletin*, April 2018, 39-42) so if the aims of these reforms are to be achieved, this more general protection must be available to victim survivors.

Benefits of introducing a standalone defence

Under s 1317S and s 1318 of the Corporations Act, the courts can already grant relief when someone has acted honestly and they ought fairly to be excused, which would arguably apply to victim survivors of coercive control. However, there is no case law decided under these sections in the context of economic abuse, coercion or undue influence, nor any directly analogous issues. This relief is discretionary and can only be granted in court proceedings, and also requires significant resources and expertise to establish, making it inadequate to protect victim survivors in its current form. The introduction of a standalone defence would make the right to relief more accessible, improve access to justice, and provide clarity for victim survivors, advocates, liquidators and creditors that the defence expressly applies in these circumstances.

Introducing coercive control as specific grounds for relief in the legislation would bring the greatest benefit to victim survivors outside of court proceedings, by enabling victim survivors and their advocates to bargain under the shadow of the law. The reality is that most victim survivors simply do not have the resources to litigate or establish legal precedents, and often take the path of least resistance by entering bankruptcy or accepting personal liability for coerced debts.

Improving liquidators' treatment of coerced directorships

Amending the Corporations Act to include express defences for coercive control would also have flow-on benefits for liquidators' conduct. Liquidators have a duty to act in the company's best interest and, if the company is insolvent, in the creditors' interest. Under the current legislation, waiving debts owed to creditors in recognition of coercive control would likely result in lower returns for creditors and would not strictly be in their interest. Without legislative reform to recognise coercive control as a defence, liquidators are reluctant to expose themselves to liability for breaches of their obligations, as the legislation does not currently allow them to exercise compassion or take into account economic abuse and coercive control experienced by a coerced director.

Legislative amendments also have normative value in changing liquidators' practices. ASIC Regulatory Guide RG258 for registered liquidators requires liquidators to "maintain [their] knowledge about Australian law and practice, including ensuring [they] are up to date with any amendments to: (a) the Corporations Act" (at RG258.138). Expressly recognising coercive control as a defence in s 588H, s 588FG and s 1317S would require liquidators to improve their understanding and awareness of financial abuse and coercive control. RG258 could be further strengthened by amendments introducing a new section addressing coerced directorships and instructing liquidators to pursue the de facto director rather than the coerced director. Liquidators are required to complete 120 hours of continuing professional education every 3 years, providing opportunities to leverage these reforms to build their capacity to recognise and respond to signs of coercive control.

Recommendation 16: Introduce defences in the Corporations Act for relief from liability in circumstances of coercive control in sections 588H, 588FG and 1317S, not only as a defence to insolvency-related directors' duties.

Recommendation 17: Amend RG258 to introduce a new section addressing coerced directorships and instructing liquidators to pursue the de facto director rather than the coerced director.

Quotes from insolvency practitioners

"There is no question that there are limitations to using existing provisions for this purpose and that a new provision that properly aims to respond to this very serious issue is the best course of action long term."

"To be successful in this defence, a victim survivor would need to be very financially capable, sophisticated, well-resourced, and able to fund the litigation and expert evidence needed to establish it … in other words, a very narrow class of persons".

"In twenty years of practice in insolvency, I naively assumed the Corporations Act would provide relief from liability in these circumstances, but I am now convinced the opposite is true."

"These considerations demonstrate the difficulties in relying on section 588H(4) in these circumstances, which could be addressed by statutory intervention providing that a victim survivor of economic abuse (as defined) could have a defence to insolvent trading in specified circumstances."

"The reasonable response would be to include a separate provision around economic abuse."

Source: Briefing paper: Economic Abuse & the Corporations Act, Economic Abuse Reference Group, September 2024

Uncertainty and risk of prosecution under the Corporations Act

We caution against Treasury assuming that prosecutions against coerced directors are unlikely. Legislative reform can play a critical preventative role and send a clear signal to perpetrators, victim survivors, intermediaries, liquidators and creditors. While in our experience it is unlikely that ASIC or an insolvency practitioner would bring proceedings or continue proceedings against a victim survivor once economic abuse and coercion came to light, the risk of investigation and prosecution remains: not every case will involve a coerced director with limited assets, nor will the presence of economic abuse necessarily be apparent to ASIC or a liquidator. See Francesca's case study in response to **Question 21**. Further, liquidators may be more motivated to bring a claim where there is an asset (such as the family home) in the victim survivor's name, and creditors may pursue a coerced director directly for compensation due to breach of s 588G.

This risk is compounded by a lack of understanding of the Corporations Act and directors' duties among the community, and a lack of clarity about how ASIC, liquidators and creditors might respond to disclosures of economic abuse and coercion.

For many victim survivors, the fear of not knowing whether they will be investigated or prosecuted has as much of an impact on their wellbeing as actual prosecution, particularly where:

- the victim survivor has very little knowledge of the company's financial position (and/or this is being withheld by the company's accountant) so cannot assess whether the company traded while insolvent or obtain legal advice about the risk of prosecution;
- the perpetrator threatens to report the victim survivor to ASIC or the ATO if they leave the relationship, and leave them with personal liability for company debts and breaches of their duties; or
- the perpetrator reassures the victim survivor they will take care of the company debts on the condition the victim survivor remains in the relationship or provides other 'collateral' (for example, access to children or taking responsibility for other debts).

Depending on the limitation periods of the relevant provisions in the Corporations Act, victim survivors may be forced to endure this uncertainty and risk for five to six years, or even up to 12 years in some instances (for example, if they were coerced to transfer company property to themself in their personal capacity), which may extend far beyond the end of the relationship.

Minimal risk of misuse of the defence

A possible unintended consequence could be misuse of the defence through fraudulent claims of coercive control. Examples of how evidentiary requirements and safeguards against misuse have been addressed in other Australian contexts are instructive. The *Migration Regulations 1994* (Cth) provide several alternatives, including statutory declarations by victim survivors.[3] The consumer credit sector has adopted a more flexible approach. A letter or email from a community lawyer, financial counsellor or family violence professional assisting the victim survivor is often accepted by credit providers as evidence of financial abuse. Through extensive experience gained from assisting victim survivors, interviewing clients, and examining the documentary evidence emerging from investigations, caseworkers from these sectors are skilled in distinguishing genuine claims of family

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[3] *Migration Regulations 1994* (Cth) regs 1.24-26.

violence from false claims. They are also incentivised to exercise a high level of caution when putting forward clients' claims of family violence, knowing that their service will lose credibility with the ATO or other creditors if they advocate for a client whose claim is false. The Australian Financial Complaints Authority (AFCA) advises financial firms to accept survivors' disclosures of family violence 'at face value without requiring proof' and insurers to 'minimise the information and documentation required [and] avoid requiring intervention orders as proof'.[4] Such approaches reduce victim survivors' barriers to justice. Obtaining documentary evidence of family violence remains challenging for victim survivors, particularly when the police are dismissive of their reports of financial abuse.[5] For further discussions of evidence, please refer to our responses to **Questions 24 and 25** below.

10. Should any expanded or new defence include a temporal requirement for coercive control to have occurred at the time in which the contravention occurred?

No, there should be no temporal requirement to prove coercive control at the time of the alleged contravention. Coercive control is, by its very nature and definition, an ongoing and repeated pattern of behaviour rather than incident-based behaviour: "some coercive and controlling behaviours can seem minor on their own, but when they're repeated or continuous they can cause serious harm".[6] The first instance of a coercive controlling behaviour in a relationship is unlikely to be identified or documented by a victim survivor or support service, nor is the last, making it very difficult to establish a clear start and end point or produce evidence to that effect.

Coercive control is an insidious form of abuse which is often difficult to identify, not only for the person experiencing it but also for their family and friends, external service providers, and police and judicial staff. Identifying and responding to coercive control requires specialised skills, training and experience working with victim survivors, as is evident from the significant investment into training and resources being made by state governments that have introduced a criminal offence of coercive control.[7]

Including a temporal requirement for coercive control to have occurred at the time of the alleged contravention would severely restrict the ability of victim survivors to access this defence, defeating the intended purpose and impact of the proposed reforms.

Victim survivors already face significant evidentiary burdens in 'proving' their experience of financial and economic abuse, particularly through complex business structures, including because:

[4] Australian Financial Complaints Authority, The AFCA Approach to Family Violence (2025) at page 4.
[5] In a previous submission, the EARG cites an example of a male police officer taking down 'very basic details' of the survivor's situation, noting 'possible identity fraud' committed online 'by an unknown person' with no further investigations despite there being an Apprehended Domestic Violence Order in place; Economic Abuse Reference Group, Submission to Treasury on the Options Paper for regulating Buy Now Pay Later in Australia (December 2022) at pages 2-3. See also Kerryne Barwick, Paul McGorrery and Marilyn McMahon, 'Ahead of Their Time? The Offences of Economic and Emotional Abuse in Tasmania, Australia' in Marilyn McMahon and Paul McGorrery (eds) *Criminalising Coercive Control* (Springer, 2020) 135, 153.
[6] See New South Wales Government, What is coercive control?.
[7] See for example, New South Wales Government, Criminalising coercive control in NSW.

- Victim survivors may have limited financial literacy or understanding of business structures;
- Victim survivors may have had no knowledge of the company or their role in it, so may not have kept contemporaneous records of coercive control at the time of relevant contraventions;
- Perpetrators may have destroyed or tampered with business and financial records to avoid having a ‘paper trail’ of their behaviour; and
- Accountants may be wilfully obstructive, particularly if they are an associate of the perpetrator or have retained their client relationship with the perpetrator, and often refuse to produce business, financial or tax records on request by the victim survivor or their representative.

Please refer to our responses to **Questions 24 and 25** below.

Recommendation 18: Ensure that coercive control defences do not include a temporal requirement for coercive control to have occurred at the time in which the contravention occurred, in recognition of the gradual and insidious nature of coercive control.

Case study 7 – Evidentiary burden and obstruction by perpetrator and accountant (Redfern Legal Centre)

Mary* experienced consistent psychological and financial abuse throughout her relationship with her ex-husband Matt*. She was entirely financially dependent on Matt and he unilaterally controlled the couple’s financial decision-making, withholding financial information from Mary. He was physically and emotionally abusive when questioned. When he was facing the liquidation of his company and imminent bankruptcy, he established a new company and coerced Mary to become a director and sign loan documents and personal guarantees for business contracts. He forced Mary to sign documents without giving her an opportunity to read or seek independent advice about them. Mary had no access to information about the company’s financial position and no role in the management of the company’s affairs. She had limited financial literacy, no previous business experience, and was unaware of the legal implications of directorship.

Matt continued controlling the company while he was bankrupt. After the relationship ended and the company was liquidated, Mary was left to deal with the fallout. She said *“the liquidators kept asking me for so much information, but I couldn’t answer any of their questions. I couldn’t get out of the situation because I had no paperwork to respond to requests from the liquidators or defend myself. Matt refused to provide any information, then the paperwork ‘disappeared’ because he didn’t want to risk the tables turning on him if I could prove that he was the one controlling the company.”* The company’s accountant was a friend of Matt’s and refused to provide Mary any documents.

It was only after leaving the relationship and seeking legal advice that Mary became aware that she owed the ATO over $50,000 for unpaid tax debt and director penalties and over $100,000 to other creditors. She was in severe financial hardship and relied on Centrelink payments to support her children: *“I walked out as a single stay-at-home mum. I had no superannuation, no savings, no recent work experience, no rental history, and a terrible credit score. I couldn’t get loans because of the company liquidation and the* *credit cards Matt took out in my name. I had to start over. I was so scared because it was such an overwhelming situation and he had so much power over me."*

It took three years for Redfern Legal Centre and pro bono insolvency and tax lawyers to resolve all the legal and financial consequences of the economic abuse Mary had experienced. By the time she was able to stop engaging with lawyers, she had been out of the relationship for six years, and said *"This is only the end of being chased. Now it's the beginning of repairing and recovering."*

11. Should any expanded or new defence include circumstances where a coerced director did take part in the management of the company, but their actions were under coercion?

Yes. If the defence is intended to capture circumstances of coercive control, this must extend beyond the original point of director appointment and include director actions made under coercion or other threats. Many victim survivors' liabilities due to coerced directorships arise because of subsequent coerced acts, like being coerced to sign personal guarantees for company contracts, which may be deemed 'taking part in the management of the company', albeit under coercion. Other victim survivors knowingly take actions as the director of the company in good faith (often on ill-considered advice from professionals) once they become aware of their directorship, such as bringing the company's tax affairs up to date on request by the ATO, and should not be punished or excluded from relying on a defence.

It would defeat the purpose of introducing an expanded or new defence if this defence only applied to victim survivors whose experience of coercion ended after they were appointed director. This factual scenario is also highly unlikely, based on the behaviour patterns of coercive control, our members' casework experience (evidenced by the case studies throughout this submission), and research: see Vivien Chen and Jasmine Opdam, Coerced Business Debts: Uncovering Hidden Harms from Economic Abuse, 2025. This factual scenario is likely to only arise in the case of co-directors, where the perpetrator signed personal guarantees and conducted the business in their own capacity as director, leaving the victim survivor to be a director 'in name only'.

To meet the Government's commitment to 'Prevent perpetrators from using the tax and corporate systems to create debts as a form of coercive control and make perpetrators accountable for these debts if they do', any defence must be available to the full spectrum of coerced directors. See our response to **Question 3** regarding the spectrum of knowledge and consent of coerced directors, and typical mechanisms of fraud and coercion.

Recommendation 19: Ensure that coercive control defences apply to coerced directors who took part in the management of the company under coercion or in good faith, not just coerced directors who never took part in the management of the company.

E. Director penalty processes

12. How can the ATO assist a coerced director to engage with them as soon as possible and bring their circumstances to the Commissioner's awareness?

To improve engagement with coerced directors and victim survivors of family violence in relation to their tax affairs, it is crucial that the ATO develop and implement a family violence policy. Such a policy should provide guidance and reassurance to victim survivors and their advocates about how the ATO will handle disclosures of financial abuse and coercive control, the pathways and options available to coerced directors, and a commitment to engaging with victim survivors in a trauma-informed manner.

Well-established precedents and illustrative examples can be found in policies and guidelines which have been developed and tested in close consultation with the Economic Abuse Reference Group, advocates and victim survivors with lived experience, including:

- the Australian Financial Complaints Authority's Approach to Family Violence (2025);
- the Australian Banking Association's Industry Guidelines on Preventing and responding to family and domestic violence (2021, currently being revised) and Preventing and responding to financial abuse (including elder financial abuse) (2021, currently being revised); and
- the Council of Australian Life Insurers' Best Practice Guidance on Family and Domestic Violence Policies (2025).

In comparison, the ATO's new Vulnerability Framework (2025) only mentions financial abuse and coercion once in the Commissioner's foreword,[8] not in the body of the document or any of the ATO's commitments to taxpayers experiencing vulnerability. The definition of vulnerability was only broadened to include "mistreatment, abuse, or other personal circumstances" in response to negative feedback from the community sector during consultation.

Recommendation 20: Require the ATO to develop a family violence policy in close consultation with advocates and victim survivors with lived experience.

Any family violence policy must also be accompanied by significant investments in training and cultural change within the ATO. Our members' experience is that bringing circumstances of coerced directorships and financial abuse to the ATO's attention, even at an early stage, does not often guarantee a positive outcome and is often met with suspicion or a lack of compassion. See the case study below.

Recommendation 21: Require the ATO to invest in specialist staff training on financial abuse and coercive control.

[8] The Commissioner's foreword acknowledges that 'vulnerability can be exploited. That's why a key consideration to ensuring there are consequences for deliberate non-compliance and misuse of the system includes taking into account where people seek to take advantage of people experiencing vulnerability, including financial abuse and coercion'.

Case study 8 – ATO approach to debt collection does not recognise financial abuse (Consumer Action Law Centre)

Astrid* was referred to the National Debt Helpline by the ATO. She is a victim survivor of family violence. This family violence included complex financial abuse, including through a company that was controlled by her estranged husband. When the financial counsellor first spoke to Astrid in 2023, she was struggling to support herself and her then pre-school aged child with help from her mother. She was unable to receive a single parent payment through Centrelink as her ex-husband refused to sign a separation certificate. She was being pursued by the ATO for a debt of $500,000.

The financial counsellor referred her to her local agency for advocacy and support and flagged the possibility of declaring bankruptcy. Astrid contacted the NDH again recently and advised that her divorce had been finalised and she had recently applied for Centrelink. The ATO debt had not been paid and now totalled more than $600,000, including hundreds of thousands of dollars in Director Penalty Notices, which the ATO was holding her liable for.

Astrid said she had no way of paying this debt as she had left her marriage "with nothing" and had no assets and currently no income. Astrid stated her ex-husband was responsible for this debt. She was trying to get him to pay the debt as part of their family law property settlement, which was ongoing. She felt the ATO was unsympathetic to her situation and their relentless demands for payment, including threats of debt collectors and garnishee orders, were causing her significant distress and exacerbating the stress and hardship she was already experiencing due to her ex-husband's continued emotional and financial abuse.

13. How can additional time be provided to coerced directors to obtain advice and determine the appropriate actions to take for their circumstances, while also upholding the DPN regime's intended purpose to recover employee entitlements from non-compliant directors in a timely manner?

The director penalty regime is unduly onerous for victim survivors of financial abuse, including because of the 21-day timeframe to respond to a DPN. Such a short timeframe is not necessary to satisfy the DPN regime's purpose of recovering employee entitlements in a timely manner. In many cases a DPN is only received after this 21-day timeframe has passed, because of postal delays, the victim survivor changing address to escape the relationship, and/or the DPN being sent to the perpetrator's address. The limited free support services available to victim survivors in receipt of DPNs, such as financial counselling services, regularly have 8-week waitlists so victim survivors are typically unable to obtain advice within 21 days of receiving a DPN, let alone provide full payment of company tax debts or liquidate the company.

In circumstances where a victim survivor receives a DPN in relation to a company for which they were made director by coercion or fraud, the best pathway currently available to them (to avoid costly court proceedings) is to apply to ASIC for their directorship to be annulled, a process which can take up to two years, before seeking to defend the DPN. If their application to ASIC is successful, the victim survivor's name will be removed from the company register and the DPN will be withdrawn, removing the need to defend the DPN. If the victim survivor's application is unsuccessful, typically because it is unsafe for them to proceed rather than due to a lack of evidence, the victim survivor will then need to defend the DPN, but this may be two years after it was issued, putting the victim survivor well outside the 21-day timeframe to respond and the 60-day timeframe to mount a defence.

The DPN regime leaves many victim survivors at imminent risk of bankruptcy for tax liabilities they did not incur. The 21-day timeframe should be extended as a matter of urgency to allow sufficient time for victim survivors to obtain advice about their situation and their options for defending the DPN. We refer to Recommendation 56 of the Parliamentary Joint Committee on Corporations and Financial Services (PJC) in its report Financial Abuse: An Insidious Form of Domestic Violence (December 2024) (PJC Financial Abuse Inquiry): "That the Australian Government extend the time period allowed to respond to a Director Penalty Notice in cases of reasonable claims of financial abuse".

The available defence to a DPN in section 269-35(1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth) (Taxation Administration Act), that a director was unable to take part in the management of the company at any time "because of illness or for some other good reason", is not explicit enough to apply to circumstances of financial abuse and coercive control. If a victim survivor seeks to rely on this defence, they must do so within 60 days, which is typically too narrow a timeframe to obtain appropriate advice from a lawyer or tax professional, and they must not have ever undertaken any actions that could qualify as 'director actions'. Many victim survivors, upon discovering that they are a director, attempt in good faith to bring the company's taxes up to date or take other steps which later prevent them from being able to rely on this defence.

It is onerous and often retraumatising for victim survivors to find an advocate who can assist them, gather the necessary documentary evidence (typically obstructed by the perpetrator and their accountant) and then make submissions to the ATO seeking to rely on a narrow defence, within strict time limits and without any certainty of a successful outcome. Our members have seen instances of the ATO issuing DPNs to individuals based on incorrect officeholder information on the company register, such as incorrect names or dates of birth. In these cases, the burden falls on the taxpayer to contact ASIC to obtain confirmation that they are not the individual who has been identified by the ATO and then dispute liability for the DPN.

Recommendation 22: Extend the timeframe for victim survivors to respond to a Director Penalty Notice to 60 days and provide an automatic 90-day extension where the director makes a preliminary declaration of coercive control.

14. What are the benefits and risks of extending timeframes for coerced directors to take steps to have a DPN remitted or submit a defence?

The benefits of extending these timeframes include:

- Enabling meaningful access to justice by allowing time for victim survivors to obtain legal advice, gather evidence, compile documentation from multiple sources and prepare proper defences. Without extended time, many victim survivors default and go bankrupt simply because they cannot obtain professional advice and respond in the timeframe, not because they lack valid defences;

- Enabling defences to be established that fully relieve liability, supporting better outcomes for coerced directors beyond simply bankruptcy;
- Reducing wastage of ATO resources on debt collection and enforcement of tax debts against victim survivors who cannot pay, and should not be held liable;
- Reducing wastage of government funds for community services (e.g. financial counselling services, community legal services, legal aid commissions and tax clinics in the National Tax Clinic Program) that assist victim survivors with DPN defences;
- Reducing workload and burnout among frontline staff (in organisations that are typically government-funded) working to respond within short timeframes, thereby improving staff retention and satisfaction within the assistance sector;
- Reducing negative harms for victim survivors such as poverty, homelessness and poor mental and physical health outcomes, which in turn require government resources and funds; and
- Improving trauma-informed practice within the tax system, recognising that trauma impacts cognitive function, decision-making capacity, and ability to engage with complex administrative processes. Current rushed timeframes force engagement with complex legal processes while in crisis, compounding psychological harm.

Risks include:

- Delay in employee entitlement recovery. However, coerced directors rarely have the means to satisfy DPNs even if they cannot mount a defence in time. Slight delays in pursuing DPNs would not materially delay employee recovery.
- Potential misuse by directors who have not in fact been coerced. However, in the experience of our frontline members, very few directors would go through the process of seeking advice or support services, making false statutory declarations, gathering fabricated evidence, and risking criminal penalties simply to have a longer time period (for example, 90 days) to respond to the ATO, given this longer period does not relieve liability and they would still need to substantiate the defence.

We consider the benefits outweigh the minimal risks, particularly when the risks can be managed through appropriate safeguards.

F. Defences for directors' duties relating to tax and superannuation liabilities

15. Are there any unintended consequences associated with introducing a new defence to explicitly include experience of coercive control?

We refer to our response to **Question 9** as the same analysis applies here. Explicitly including coercive control in the defence for director penalties provides clarity and accessibility without creating scope for misuse. The parallel between defences under the Corporations Act (for insolvent trading and breaches of directors' duties) and defences under the Taxation Administration Act (for director penalties) requires consistent treatment in both pieces of legislation. The same considerations and minimal risks of misuse apply, as do the safeguards available (such as relying on the evidence and assessments of frontline professionals and support services). These services are highly skilled in identifying genuine victim survivors of coercive control, as well as perpetrators seeking to misrepresent themselves, conflict their victims out of access to support services, or defraud systems.

16. Where director penalties also relate to a period before the victim-survivor experienced coercive control, should the victim-survivor be relieved of liability for the whole period or only for the period they experienced coercion?

Coercive control typically has a very subtle and gradual onset, and it is incredibly difficult for a victim survivor to identify, let alone substantiate, an exact ‘start point’. Relief from liability should apply to the whole period to which the liabilities relate, recognising that coercive control is a fundamental characteristic of abusive relationships and does not simply begin or end with individual incidents.

Attempting to identify a linear or defined period of time in which coercive control occurred indicates a fundamental lack of understanding of the patterns, behaviours and nuance of coercive control, which set this insidious form of domestic violence apart from individual incidents of domestic violence (for example, physical assaults). We refer to our response to **Question 10** above on this point.

The one exception may be where a victim survivor has been operating a company with full knowledge, control and oversight, and then enters a relationship characterised by coercive control, at which point their partner takes on the role of de facto director and begins to sabotage the company via coercion or fraud. In this case, the victim survivor could produce evidence of the start of the relationship, and their liabilities pre-relationship (where they controlled the company themselves) could be separated from their liabilities during and after the relationship (where the perpetrator controlled the company). Other scenarios include the perpetrator joining the business, taking control of the business during periods of maternity leave, or the perpetrator siphoning business assets to cover gambling losses over periods of time. The burden of proof for exceptions should rest with the Commissioner.

Case study 9 – Coercive control following period of active management (Redfern Legal Centre matter 216148)

Claire* and her partner Joe* moved in together and set up a concreting company. Both Claire and Joe were company directors. Claire took on the administration and bookkeeping side of the business while Joe carried out the day to day running of the business. Claire kept her full-time job for the entire duration of her directorship.

Once they moved in together, Claire discovered Joe had gambling and substance abuse issues. Joe consistently drained both personal and company bank accounts to fund his gambling habit. Claire tried to help Joe with his gambling problems and tried to keep the business afloat. She engaged with government gambling services, a counsellor and their accountant. However, all her attempts at mitigating the effects of his gambling were met with increasingly serious levels of domestic violence and intimidation.

After a long period of trying to address all of the problems, Claire resigned as a director and moved out of the shared premises as the domestic violence and gambling were continuing to escalate.

Once Claire left the relationship, she was issued a Director Penalty Notice for over $60,000 from the ATO for unpaid GST and PAYGW for the period she was a director. Claire tried to contact the ATO when she was first issued the notice, but faced many barriers. ATO staff would not speak to her about the matter as she was no longer a director and therefore did not have authority to speak on behalf of the company. Claire tried to get Joe to engage with the ATO but he refused to do so effectively. This led to Claire having the DPN debt amounts attributed to her personally.

Claire wrote a detailed letter through myGov disputing the DPN debt. She outlined the situation she had been in, the attempts she had made to comply with her tax obligations and the significant abuse perpetrated by Joe. She accompanied her submission with an ADVO, gambling counselling report and report from her accountant speaking to her previous history of tax compliance.

Claire did not receive any receipt or acknowledgement of the submission and did not hear back from the ATO for over three months. Claire contacted Redfern Legal Centre's Financial Abuse Service, who contacted the ATO with her for an update and information on their 28 day service commitment. As a result of this call, the ATO agreed to escalate her submission, and a week later Claire received a letter stating that she had been released from the DPN debt.

Claire being released from the debt was a great outcome and an excellent example of the ATO using their discretion to release a director from debt due to significant family violence, even when they had previously been actively involved in the management and control of the company. However, this does not reflect the ATO's standard practice, and our members have observed inconsistent outcomes where the ATO has declined to release a coerced director from liability in very similar circumstances. Claire was not able to get a response from the ATO without specialist legal assistance from Redfern Legal Centre to escalate her matter. This assistance is not available in the community legal sector in other states.

17. What are the benefits and risks of expanding the existing defence or introducing a new standalone defence for coercive control?

See our response to **Question 9** in relation to coercive control defences in the Corporations Act, which we would expect to see mirrored in the Taxation Administration Act.

18. Are there any differences or considerations that should be accounted for between the corporate and tax systems when considering strengthening defences for directors' duties?

Key differences to account for include:

- The decision-makers (the courts and ASIC vs the Commissioner of Taxation);
- The timing of raising defences (after liquidator proceedings vs within 60 days);
- The range of creditors who may only deal with victim survivors on an intermittent basis;
- The spectrum of awareness, understanding and recognition of coercive control;
- The nature of liability (compensation vs specific debt); and
- Standards of proof (criminal vs civil).

These differences could be addressed through:

- A common coercive control definition;
- Coordinated simultaneous legislative reforms using consistent language for coercive control defences;
- Joint guidance from ASIC and the ATO on interpreting and applying the defences;
- Cross-recognition of determinations between ASIC, liquidators, the courts and the ATO;
- Information sharing between ASIC and the ATO, with appropriate privacy protections;
- Consistent evidentiary standards;
- Alignment between temporal requirements;
- Consistent procedures, where possible; and
- Consistent training to facilitate better recognition of coercive control and financial abuse, which will be crucial to enabling the effective implementation of defences and consistent responses from a range of non-tax related business creditors.

G. Opportunities to hold perpetrators to account

19. Would the introduction of new criminal and civil penalties for perpetrators involved in coerced directorships operate as an effective deterrent and punishment to perpetrators?

Instead of pursuing victim survivors for coerced debt, creditors and authorities should pursue the perpetrator responsible for the breaches of duties as shadow or de facto director. The onus must be on authorities to prosecute the appropriate party, rather than requiring victim survivors to mount costly defences. This will ensure that creditors' interests are protected, wrongdoers are held accountable, and the burden is not held by the victim survivor.

Perpetrators have been prosecuted for making false statements to ASIC under section 1308(2) of the Corporations Act for non-consenting directorships.

New penalties would be valuable for a specific offence of coercing another party into a coerced directorship, but penalties alone are insufficient. The current problem is not inadequate penalties; it is inadequate enforcement and application of the available penalties. Existing offences already cover much perpetrator conduct under:

- Providing false and misleading information to ASIC;
- Shadow director liability for breaches of directors' duties and certain insolvency-related debts;
- Phoenix activity offences; and
- Fraud offences under criminal law.

Based only on the casework of Each's business-related financial abuse service, Redfern Legal Centre's Financial Abuse Service NSW and the UNSW Tax and Business Advisory Clinic, millions of dollars have been lost to financial abuse through corporate and tax systems, however very few perpetrators have faced investigation and prosecution, let alone appropriate penalties (see Christine's case study below).

These offences are rarely prosecuted in coerced directorship contexts because:

- The Commonwealth Director of Public Prosecutions determines whether it will pursue criminal prosecution of the perpetrator, not ASIC or the ATO;

- Proving shadow director status requires substantial evidence of the perpetrator's involvement in management, which victim survivors and their advocates often cannot access;
- ASIC and the ATO have limited resources and prioritise large-scale corporate misconduct over individual cases of financial abuse;
- Victim survivors face barriers to reporting (e.g. ongoing fear, trauma, lack of awareness);
- Liquidators focus on asset recovery rather than pursuing shadow directors for penalties;
- Fraud by related parties is not investigated by the ATO, in order to refer suspected coerced directorship cases to ASIC for investigation and pursuit of perpetrators.

If the Government is serious about deterring and holding perpetrators accountable, it needs to establish specialised teams within ASIC and the ATO focused on financial abuse and coerced directorships, with dedicated prosecution resources.

Recommendation 23: Establish specialised teams within ASIC and the ATO with dedicated resources to investigate and prosecute perpetrators of financial abuse and coerced directorships.

Case study 10 – Director charged with breaching directors' duties and making false statements to ASIC (Each)

Christine* was made a non-consenting or director of multiple companies by her ex-husband Ray*. The companies entered creditor-petitioned liquidation, leaving Christine liable for $12 million in debts and liquidator claims, all resulting from Ray's fraud and manipulation of complex corporate structures, systems and professionals.

ASIC investigated Ray's companies following a liquidator's report funded by the Assetless Administration Fund. Each assisted Christine in submitting multiple misconduct reports to ASIC and Form 377 annulment applications.

Christine was interviewed by ASIC and later by the Commonwealth Director of Public Prosecutions. She gave evidence and had her victim impact statement read in court – a re-traumatising process requiring her to recount her story multiple times across interviews and hearings. Her safety was monitored throughout, and her financial counsellor assisted and provided support throughout the process.

Ray was prosecuted for five counts of making false statements to ASIC under section 1308(2) of the Corporations Act, carrying maximum penalties of 5-15 years' imprisonment. He received a recognisance release order and a fully suspended 12-month sentence, conditional on two years' good behaviour, with $2,000 security. The magistrate described the offending as 'objectively serious', noting family violence was used to facilitate complex structures promoting Ray's lifestyle and business interests.

Despite defences for child support or creditors, Ray funded his lengthy legal defence. Christine and the liquidator suspected he had diverted assets but could not trace them.

At the conclusion of the court process, Ray was approaching discharge from his creditor-petitioned bankruptcy, anticipating a "fresh start" with his new partner with no jail time served and no financial consequences.

Christine remained entangled in resolving the consequences of financial abuse with the ATO and liquidator. While the liquidator informally agreed to "pursue other matters" post-prosecution, formal claims against her remain unresolved.

Ray faced limited accountability for only these specific charges, not his broader director misconduct or other financial abuse, while Christine continues to work to resolve his liabilities with her financial counsellor.

20. How and when do intermediaries and professionals enable or facilitate the weaponisation of company directorships? Should penalties apply to intermediaries and professionals in these circumstances?

Our members often hear of intermediaries and professionals engaged to assist with business affairs, including through asset protection or tax minimisation, being complicit in the weaponisation of company directorships. Victim survivors report company arrangements being established with the assistance of financial planners, financial advisers, accountants, tax professionals, brokers, and lawyers who countersign documents or provide 'independent legal advice' prior to entering arrangements such as guarantees. Such professionals are often business associates, friends or relatives of the perpetrator, or have been working with the perpetrator for some time, and typically do not take instructions from or communicate with the victim survivor at all.

In addition to 'how' and 'when' intermediaries enable or facilitate the weaponisation of company directorships, Treasury should consider 'how often' and 'which' professionals; just as there are perpetrators who repeatedly engage in illegal phoenix activity and coerced directorships in subsequent relationships, as identified elsewhere in this submission, there are also intermediaries and professionals who repeatedly facilitate the weaponisation of company directorships for different clients. Identifying repeat offenders and patterns within these professions will inform the policy options available to Treasury and guide subsequent reforms, depending on the prevalence of these behaviours among each profession and whether the behaviours are motivated by a lack of awareness and training to identify coercive control, or financial incentives, or personal relationships with the perpetrator.

These professions play a crucial role as frontline service providers in both preventing and enabling financial abuse: they have an annual touchpoint with taxpayers and are uniquely placed to identify and disrupt financial abuse, yet some are unwittingly or willingly complicit in financial abuse perpetrated through the tax system and business structures. We reiterate the findings of the PJC Financial Abuse Inquiry that "there are inadequate levels of ethical responsibility and professional training among financial planners, financial advisers, and accountants with respect to financial abuse" (page 108). Penalties are a necessary deterrent to prompt behavioural and cultural change within these professions.

The new AUSTRAC anti-money laundering and counter-terrorism financing (AML/CTF) designations coming into effect from 1 July 2026 will require professional services such as accountants, lawyers, trust and company service providers to meet AML/CTF obligations.[9] This provides an opportunity for those professional services to consider coercion as part of their AML/CTF risk assessments for new clients.

[9] See AUSTRAC, Professional services (Reform).

Recommendation 24: Consider 'how often' and 'which' intermediaries or professionals enable or facilitate the weaponisation of company directorships, to ensure the policy options, reforms and penalties are tailored to the prevalence and drivers of these behaviours among each profession.

Recommendation 25: Implement strict penalties for intermediaries and professionals who enable or facilitate the weaponisation of company directorships.

Recommendation 26: Consider opportunities for professional service providers such as accountants, lawyers, financial advisers and planners, and trust and company service providers to consider coercion as part of their upcoming AML/CTF risk assessment obligations.

How professionals enable the weaponisation of company directorships

Accounts from victim survivors suggest that these professionals took instructions primarily from the perpetrator who made financial decisions, and encouraged victim survivors to agree to arrangements that they did not understand and that were not in their best interests.

Interviewees told of victim survivors being advised by accountants and finance professionals to 'put the assets in his name and the debts in my name, and that protects us as a family' or 'there's a tax benefit for the family if you sign' without explaining the risks to her if relationship difficulties arose or they got divorced. Another interviewee said that their client was advised by a professional that, 'The man who is a doctor, or high flying professional of some sort, shouldn't be the director of the company, or shouldn't be the one giving a guarantee, because that's an increased risk, and you want to protect the family.'

Source: Vivien Chen and Jasmine Opdam, Coerced Business Debts: Uncovering Hidden Harms from Economic Abuse, 2025, page 15.

The Government currently does little to raise awareness amongst taxpayers and tax professionals about financial abuse in the tax system. EARG members, financial counsellors, academics and representatives from pro bono tax clinics have taken the initiative to raise awareness of financial abuse within the tax profession through webinars,[10] articles[11] and podcasts[12] with professional bodies such as Chartered Accountants ANZ, the Tax Institute and CPA Australia. The issue has received significant interest from tax professionals but there is far more to be done and levels of awareness and understanding within the profession remain relatively low.

We refer to Recommendation 37 of the PJC Financial Abuse Inquiry: "That accounting bodies, financial advice and planning peak bodies, and victim-survivor advocate

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[10] Chartered Accountants ANZ, 'Sharing Knowledge: Recognising the Signs of Client Financial Abuse', 28 November 2024.
[11] Chartered Accountants ANZ, 'Financial abuse in the tax system – recognise the signs', 23 September 2024; The Tax Institute's TaxVine 19, 'Domestic violence – What's tax got to do with it?', 31 May 2024.
[12] Chartered Accountants ANZ, 'Small Firm, Big Impact podcast: S4E12: Financial abuse in the tax system and how to recognise the signs', 27 November 2024.

organisations co-design education resources for service providers to enable increased identification of financial abuse and timely reporting of suspected abuse to financial institutions and law enforcement bodies"; and Recommendation 38: "That accounting, financial planning and financial advice industry bodies develop and review ethical obligations of their profession in relation to receipt of instructions which may have a financial abuse motive and institute accompanying penalties for members who actively enable or facilitate financial abuse on behalf of their clients where there is no other reasonable basis underlying the instructions given by the client."

There is a need for professional associations to develop protocols and guidelines to assist members to identify financial abuse and act appropriately to prevent, disrupt and respond to it. The Australian Banking Association's industry guidelines on DFV and financial abuse offer guidance to the ATO, tax professional associations and the Tax Practitioner Board in this respect. Professionals should be required to comply with minimum standards, with a view to continuous improvement over time, such as:

- Attending training on domestic and family violence and financial abuse;
- Conducting meetings with both clients present, and communicating financial, tax and accounting advice to both clients, where they have been engaged by a couple;
- Interviewing clients separately if they identify warning signs of financial abuse or coercion, as is considered best practice in the banking sector;
- Making each client aware of their rights, obligations and responsibilities before establishing business structures or lodging tax returns;
- Withdrawing from acting for either client once they are made aware of a relationship breakdown, to avoid a conflict of interest; and
- Providing copies of financial and tax records to former clients on request.

To effectively disrupt financial abuse within the corporate and tax system, the Tax Practitioners Board must take action against practitioners who willingly enable or facilitate financial abuse on behalf of their clients, including appropriate penalties.

In addition to tax professionals, the above minimum standards should also apply to financial advisers and planners. The heightened scrutiny of the financial advice sector with the recent Shield and First Guardian investment collapses presents an opportunity to strengthen the professional standards, training and awareness of this sector with regards to preventing and identifying coerced directorships and financial abuse. AFCA has reported an 18 per cent increase in their 2024-25 investments and advice complaints, compared with the previous year, with complaints alleging failure to act in the client's best interest rising by 124 per cent. Further, a recent ASIC review of SMSF establishments (REP 824) identified that over 60 per cent of cases failed to demonstrate compliance with the best interest duty and over a quarter of cases raised significant concerns about client detriment relating to recommendations to set up an SMSF.

Recommendation 27: Mandate professional bodies to co-design education resources and minimum practice standards with victim survivor advocates, ensuring accountants, lawyers, financial advisers and company service providers can identify and respond to coercion and financial abuse in directorship arrangements.

Recommendation 28: Require the Tax Practitioners Board to develop and implement a family violence and financial abuse policy to guide responses to and report on complaints involving coerced directorships or financial abuse, ensuring victim-survivor safety and accountability for practitioners.

Case study 11 – Financial abuse facilitated by accountant (Redfern Legal Centre matter 214827)

Penny* and her ex-partner Harry* ran a business together for many years. Penny was the sole director of the business and also worked in the business and received a wage. Harry and his accountant managed all financial aspects of the business, including paying employees' wages and superannuation contributions. Penny experienced extensive domestic and financial abuse in the relationship, and Harry took steps to sabotage the business and leave Penny with significant debt when it became clear that the relationship was ending. For instance, Harry changed the ETFPOS machines at the premises and transferred money from a business bank account into a bank account Penny could not access. Penny was notified by her superannuation fund that superannuation contributions had not been paid on her behalf for a period of time. She investigated further and her payslips created by Harry's accountant showed contributions were being made. It appeared to Penny that Harry and his accountant were producing incorrect payslip information together.

Penny engaged the UNSW Tax and Business Advisory Clinic to assist with lodging company tax returns and to settle company debt. The Clinic had extensive difficulty linking Penny's company to their tax agent portal, as Penny needed access to online services for business to be able to authorise the linking to the new tax agent. Penny did not have access to online services for business as it had been previously set up by Harry's accountant. Penny, Redfern Legal Centre and the Clinic had a meeting with an ATO case worker to try to complete the linking. Unfortunately, the ATO case worker had not been correctly trained and did not have appropriate access on the ATO system to be able to process the linking request. All three parties had to make themselves available for another meeting to progress the process. In total, it required 3 hours of calls with the ATO to successfully link the accounts, at significant personal distress and professional time.

Penny's matter is ongoing. She is seriously concerned that the ATO will pursue the company for underpayment of superannuation. She risks a Director Penalty Notice being issued against her to make her personally liable for the underpayment of superannuation by the company, even in circumstances where underpayment of superannuation was used as a tool of financial abuse, and the superannuation is owed to her personally.

21. Are there opportunities to further empower parties such as liquidators, creditors and ASIC to identify and hold perpetrators accountable for debts incurred in their capacity as shadow directors?

Data sharing and cooperation among various federal, state and territory government agencies could help empower ASIC and liquidators, and assist their investigations. An example of this is the Phoenix Taskforce formed to identify those engaged in illegal phoenix activity. There is an overlap between perpetrators of financial abuse through company structures, and perpetrators of illegal phoenix activity and tax evasion: many victim survivors report that they are not the first woman their ex-partner has appointed as a straw company director, and not the last. Where perpetrators of financial abuse enter new relationships, they often repeat this pattern of behaviour and coerce their next partner into a director appointment or misuse other business structures.

However, victim survivors report that their tip-offs or reports about illegal phoenix activity or fraud in the director appointment or company registration processes (where it is safe for them to make such reports) are not taken seriously and do not result in investigation and prosecution. See the case study below. This is typically due to the existence of an intimate partner or other family relationship between the parties, resulting in very different treatment compared to fraud perpetrated by an unrelated party. The same distinction is visible in the ATO's refusal to exercise its powers of investigation in cases of fraud by perpetrators of intimate partner violence. The ATO's position appears to be that fraud by known third parties is a civil matter that the victim survivor must progress against the perpetrator in costly and time-consuming legal proceedings which often provide no remedy for the tax fraud. The tax fraud will stand as legitimate until proven otherwise.

Appointed liquidators detail reports of shadow director activity following company investigations in their report to creditors that is provided to the regulators, including the ATO as a creditor. This provides an opportunity for regulators to act on these reports by prioritising investigations into coercion-related shadow directorships and sharing intelligence across agencies to prevent repeat offending.

For more detail, see the joint submission of the UNSW Tax and Business Advisory Clinic and Economic Abuse Reference Group to Treasury's review of Tax Regulator Secrecy Exceptions in February 2025.

Recommendation 29: Require the ATO to exercise its powers of investigation in cases of fraud by perpetrators of financial abuse and coercive control against known third parties.

Recommendation 30: Require liquidators and ASIC to flag and escalate suspected coercion or shadow director activity and establish a mechanism for these reports to trigger targeted investigations.

Case study 12 – ATO pursuit of coerced director despite illegal phoenix activity (Consumer Action Law Centre)

Robyn* is in her thirties and lives in public housing. She receives a Centrelink income and works two days per week, earning $604 per fortnight. Robyn has no seizable assets. She was referred to the National Debt Helpline by the ATO for assistance and advice relating to a Director Penalty Notice of approximately $290,000. Robyn told the financial counsellor that the debt related to a company that a family member made her director of when she was in her early twenties. She said she knew little about the company and that the family member hid mail from her. Robyn said that, at the time, she had been quite unwell and mostly stayed in her room, relying on family to care for her. When she moved out of home a few years later, she distanced herself from the family. It was only later that she found out about the tax debt.

Robyn had been served a summons the previous year. She said she tried to put in a Notice of Appeal but became too overwhelmed. Judgment was entered and Robyn was told that she had 12 months to contact the ATO, which she said she did, but was met with an unhelpful response. Robyn said she provided the ATO with all the information she had about how the debt had come about. She completed a tip off form, where she included as much detail as she could about the family member's company names and the dates they made her director. She also reported the family member for illegal phoenix activity.

The ATO's response to these efforts was to send Robyn a "Pay in Full" Notice with the threat of bankruptcy if she did not comply. When Robyn called the ATO to discuss, she was given an extension of two weeks and referred to the National Debt Helpline. The financial counsellor provided Robyn with a warm referral to her local financial counselling agency for advocacy and support, and provided her with advice about voluntary bankruptcy as Robyn had lost all hope of being able to resolve this issue with the ATO.

Specialist training on DFV, business related financial abuse and coercive control would better equip liquidators, creditors and ASIC staff to correctly identify the de facto director of a company and target their investigations and prosecutions. In our experience, levels of understanding and compassion regarding financial abuse and coercive control are far lower in this sector than in consumer-related sectors such as banking, telecommunications and insurance, which have benefitted from government regulation, strong leadership from professional associations and peak bodies such as the Australian Banking Association (resulting in the development and dissemination of best practice industry guidance, training and resources), and genuine engagement with the community sector and lived experience advocates.

Without significant investment in increasing their understanding of financial abuse and coercive control, liquidators, creditors and ASIC will likely continue to spend their resources pursuing victim survivors for debts and claims under the Corporations Act rather than identifying and pursuing perpetrators as shadow or de facto directors (see the case study below).

Case study 13 – Liquidator pursuing victim survivor for unreasonable director related transaction claim (Redfern Legal Centre matter 213291)

Francesca* received an email from a liquidator demanding that she repay a few hundred thousand dollars within a month. This demand was sent only to her, over a month after it had originally been sent by post to her ex-partner's address. The liquidator had determined there had been an unreasonable director related transaction under the Corporations Act as her ex-partner had transferred company funds into a joint bank account that Francesca and her ex-partner had access to.

Francesca did not receive any benefit from the money; her ex-partner used all of it for his own personal use shortly after the transfer. Francesca had previously been a director of the company but had resigned as a director months before the transaction occurred.

Francesca was going through family court proceedings when the liquidator's email arrived and was very concerned that she would have to use a significant portion of her property settlement funds to settle this amount, as her ex-partner was refusing to engage with the liquidators at all.

Redfern Legal Centre was able to engage a law firm to act in a pro bono capacity to represent Francesca in relation to the liquidator in this matter. The matter is still ongoing but the fact that a specialist firm is now representing Francesca has given her hope that her rights will be protected and that the liquidator may decide to withdraw the claim against her.

22. Are there other opportunities to ensure perpetrators are held to account and face appropriate consequences for the harms they create?

Other opportunities include:

- Reviewing the ATO's practice of not investigating fraud by related parties, which is currently treated as a civil matter: see the Joint Submission of the UNSW Tax and Business Advisory Clinic and Economic Abuse Reference Group to the Treasury's Review of Tax Regulatory Secrecy Exceptions (February 2025);
- Review of maximum penalties for breaches of the Corporations Act;
- Data matching across Government agencies, including the potential use of a Victim of Domestic Violence indicator within the ATO and other agencies (as is used by the IRS in the United States);
- Reviewing Privacy Act exemptions;
- Introducing innocent spouse relief for tax liabilities, modelled on the United States (refer to the submission of the UNSW Tax and Business Advisory Clinic).

H. Defining coercive control

23. To what extent does the existing definition of coercive control in the Telecommunications Industry Standard appropriately capture the scope of harms and different cohorts of victim survivors and perpetrators?

The definition of coercive control in the *Telecommunications (Domestic, Family and Sexual Violence Consumer Protections) Industry Standard 2025*[13] does not adequately capture the range of behaviours of coercive control and economic abuse in a business context. Any definition of coercive control introduced into the Corporations Act and Taxation Administration Act must be appropriately tailored to a corporate and tax context and include reference to economic and financial abuse, rather than a general context of domestic and family violence (as is the case for the telecommunications sector).

We refer to the definitions of economic and financial abuse used by the UNSW Gendered Violence Research Network:[14]

- **Economic abuse:** A pattern of control, exploitation or sabotage of money, finances and economic resources which affects an individual's capacity to acquire, use and maintain economic resources and threatening their economic security and self-sufficiency.
- **Financial abuse:** A pattern of control, exploitation or sabotage of money and finances affecting an individual's capacity to acquire, use and maintain financial resources and threatening their financial security and self-sufficiency.

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[13] "Coercive control means a repeated pattern of behaviour that has the effect of creating and maintaining control over another individual by exerting power and dominance in everyday life to deny freedom and autonomy through fear, control, pressure or manipulation."

[14] UNSW Gendered Violence Research Network, Understanding Economic and Financial Abuse in Intimate Partner Relationships, October 2020. For more resources, see Commonwealth Bank's Financial Abuse Resource Centre.

These definitions require further tailoring to economic and financial abuse in a corporate and tax context, to recognise the imposition of fraudulent liabilities, the weaponisation of business structures and legal identities, and the creation of systemic barriers that prevent resolution or exit from financial obligations.

However, importantly, both definitions emphasise that abuse encompasses not just ***control*** of money, finances and economic resources, but also ***exploitation*** and ***sabotage*** as distinct behaviours, which are highly relevant in a corporate and tax context. For example:

- **Sabotage:** Where a victim survivor has initial control over a company and operates a business with full knowledge, consent and oversight, but the company is subsequently 'taken over', controlled or sabotaged by the perpetrator (this is typically the case where the relationship begins part-way through the company's operation);
- **Exploitation:** Where a victim survivor is exploited and required to work in the family business for no wages or compensation. This situation is complicated where the victim survivor ends up personally liable for their own unpaid employee wages, superannuation or PAYG withholding, due to their coerced directorship. See Penny's case study in response to Question 20, where the victim survivor risks a Director Penalty Notice being issued against her to make her personally liable for the underpayment of superannuation by the company, even though the superannuation is owed to her personally as an employee, resulting in a double penalty. In most cases, the victim survivor ends up with financial responsibility for these debts, because if they undertake a family law property settlement with their ex-partner, their own unpaid wages and employee entitlements will be considered a company liability and will reduce the amount available to them in the asset pool.

Recommendation 31: Ensure the definition of coercive control is appropriately tailored to a corporate and tax context and includes reference to economic and financial abuse, including the exploitation and sabotage of money, finances and economic resources, rather than simply control.

24. What are the appropriate types of evidence that would demonstrate the occurrence of coercive control?

We refer to our responses to **Questions 9 and 10** above. We recommend this be broadened to seeking evidence of coercion, control or family violence – evidence of 'coercive control' is hard to come by (as detailed above), coercive control has only recently been criminalised in two states (NSW and Queensland) and understanding and treatment of coercive control in the police and judicial system varies significantly between jurisdictions.

The available evidence will differ significantly across cases. Therefore, we recommend a comprehensive and non-exhaustive list of appropriate evidence that can be updated over time as is appropriate to stay relevant.

One or more of the following should be accepted as prima facie evidence of coercive control or family violence:

- Police reports.
- Apprehended Domestic Violence Orders, Intervention Orders or restraining orders (as known in each state or territory).

- Court documents, including affidavits, sentencing remarks and judgments.
- Reports or signed letters from psychologists, psychiatrists, general practitioners, registered counsellors or hospitals.
- Letters from support professionals such as financial counsellors, community legal centres or Legal Aid lawyers, social workers or community organisations, including but not limited to family violence frontline workers and faith-based or community leaders.
- Documentation demonstrating receipt of a payment or vouchers from Government supported programs for Victim-Survivors, such as the Leaving Violence Program, Crisis Payment, or a statutory victims' compensation scheme. Receipt of such a payment indicates the relevant government scheme has already obtained and assessed evidence of DFV or financial abuse.
- Evidence of VS attempting to access above services and payments (even if they were ineligible, as some services are means-tested).
- Evidence from federal or state government departments regarding their decision making in response to a VS's experience of DFV.
- Documentation of VSs attempting to terminate a lease due to DFV.
- Evidence that a school (for example, attended by the VS's child/ren) is aware of DFV.
- Victim statements (including self-disclosures) or statutory declarations.
- Deeds or letters of settlement or release from debts due to financial abuse.
- Liquidator reports to creditors stating another person was acting director.
- Statements from professional services (accountants, brokers, auditors, financial advisors) confirming they never engaged with the coerced director being held liable for business activities.
- Credible informal sources and accounts from professionals supporting the VS.

Evidentiary requirements should be kept as low as possible, noting the burden placed on victim survivors, their advocates and government staff in complying with onerous evidentiary requirements, the low rates of false reporting of coercive control and the likelihood that rates of economic and financial abuse are in fact underreported in Australia: as the Australian Institute of Health and Welfare notes, "given the way coercive control can restrict a person's autonomy and deny their personhood, self-reports of controlling behaviour are likely to underestimate true prevalence".[15]

Recommendation 32: Adopt a comprehensive and non-exhaustive list of prima facie evidence of coercive control or family violence that can be updated over time as appropriate, keeping evidentiary requirements as low as possible.

25. What difficulties may a victim-survivor encounter in providing evidence of experience of coercive control? What types of evidence may a victim-survivor have access to?

We refer to our responses to **Questions 9 and 10** above. In many financial abuse cases, there is little documented evidence or it is exceedingly difficult for the victim survivor to obtain such evidence, often due to obstructive tactics used by the perpetrator and/or their

[15] Australian Institute of Health and Welfare, Coercive control.

accountant or other professionals. Apprehended Domestic Violence Orders or intervention orders are generally not available in the absence of physical violence, and many victim survivors from First Nations or culturally and linguistically diverse communities may avoid police intervention. Onerous evidence requirements retraumatise the victim survivor, put the receiver at risk of vicarious trauma through exposure to distressing abuse material, are resource-intensive for support services and advocates to comply with, and waste government resources by delaying resolution of the issue.

Marginalised victim survivors, including older people, people with a disability, LGBTQIA+ victim survivors, culturally and linguistically diverse and First Nations communities may face additional challenges in obtaining evidence, particularly if there are language or cultural barriers.

There are many precedents of government agencies successfully relying on evidence provided by support services. For example:

- Victims Services NSW accepts reports from government agencies or 'government-funded agencies which provide welfare, health, counselling or legal assistance' as evidence of an act of violence that will entitle a victim survivor to compensation. See the Victims Services NSW website.
- The Department of Home Affairs accepts evidence of family violence from a family violence support service provider or social worker to satisfy the family violence provisions in migration laws. See Migration (Specification of evidentiary requirements - family violence) Instrument (LIN 23/026) 2023, and the Home Affairs website.
- The Local Court of NSW considers that receiving assistance from a community legal centre is prima facie evidence of financial hardship, negating the need to provide bank statements and other evidence. See the Local Court of NSW fee waiver form and guidelines (see Part 7 compared to Parts 10-12 for non-legally assisted clients).
- Revenue NSW waives evidentiary requirements under its fines write-off program where a customer's circumstances have already been assessed by the legal assistance sector (including community legal centres, Legal Aid commissions and Aboriginal and Torres Strait Islander legal services). This provides a streamlined, efficient and whole-of-government approach to the management of customers' debts and ensures customers, including victim survivors, are not required to repeat their stories or provide further evidence to Revenue NSW because their circumstances have already been verified. See 'Government Made Easy' for more information about the NSW Government's initiatives to make it easier for customers to access support and reduce administrative burdens.
- Fines Victoria accepts evidence of family violence in the form of supporting letters from a list of relevant professionals: see A guide to the family violence scheme at section 5.3. The list includes financial counsellors, lawyers, family violence practitioners and medical practitioners, and the report, letter or statement must include their understanding and opinion of the period of family violence, relevant ongoing impacts of the family violence, and "how the family violence substantially contributed to [the victim survivor's] inability to control the offending conduct".

26. Do other key terms need to be defined?

We refer to our response to **Question 23** regarding the need to incorporate definitions of economic and financial abuse tailored to a corporate and tax context.

We also refer to our response to **Question 5** regarding the need to differentiate between the annulment of a directorship (via court order or ASIC's administrative process) as if the individual was never validly appointed, which results in the retrospective removal of corporate and tax liabilities, compared to the resignation or removal of a director from a specific point in time, which has no impact on historic corporate and tax liabilities. We recommend using specific terms or definitions where relevant, to avoid conflating these as 'director removal processes' with the same impacts.

** Names have been changed in the case studies throughout this submission to protect victim survivors' safety and confidentiality.*