



Australian Government
The Treasury



Combating financial abuse perpetrated through coerced directorships

Consultation paper

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In the spirit of reconciliation, the Treasury acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

Contents

Contents	ii
Consultation process.....	1
Request for feedback and comments.....	1
Closing date for submissions: 24 December 2025.....	1
Help and support	2
Terminology.....	2
Combatting financial abuse perpetrated through coerced directorships	3
Introduction.....	3
Financial abuse through company directorships	3
Objectives and key principles	5
Victim-survivor safety.....	5
Promoting system integrity	5
Proportionality.....	6
Policy options for discussion.....	6
Consent to becoming the director of a company	6
Responsibility for corporate governance and consequences for corporate failure.....	10
Responsibility for tax and superannuation liabilities	12
Holding perpetrators to account	15
Defining coercive control.....	17

Consultation process

Request for feedback and comments

Treasury is consulting on policy options to reduce the prevalence and impact of coerced directorships.

Questions are included throughout the paper as a guide for comments. Interested parties may wish to respond to some or all questions, or comment on issues more broadly.

To help you prepare your response, we recommend that you:

- read the supporting documents
- prepare your response in Word (DOCX or RTF) format, you can also upload PDF files
- [read our submission guidelines](#)
- [read our privacy policy](#).

You must agree to our privacy collection statement to submit your response.

If you have any issues submitting your response, you can contact us.

Closing date for submissions: 24 December 2025

Submissions must be made online through the [Treasury consultation hub](#). Enquiries can be initially directed to coerceddirectorships@treasury.gov.au.

The policy options outlined in this paper have not received Government approval and are not yet law. As a consequence, this paper is merely a guide as to how the policy options might operate.

Help and support

This document contains material regarding family and domestic violence. If this information is distressing for you or if you need support in regards to family or domestic violence, there are a range of [help and support](#) services available.

- **1800RESPECT** – National family, domestic and sexual violence support counselling service. This service is free and confidential. Available 24 hours, 7 days a week.
1800 737 732
1800respect.org.au
- **Lifeline** – National charity providing all Australians experiencing emotional distress with access to 24 hour crisis support and suicide prevention services.
13 11 14
[Lifeline Australia - 13 11 14 - Crisis Support. Suicide Prevention.](#)
- **Men's Referral Service** – For men in Australia who are concerned about their use of violence or abusive behaviours. Available 8am to 9pm (Monday – Friday); 9am to 6pm (Saturday and Sunday).
1300 766 491
www.ntv.org.au
- **Sexual, Domestic and Family Violence Helpline** – For anyone in Australia whose life has been impacted by sexual, domestic or family violence. Available 24 hours, 7 days a week.
1800 943 539
- **Kids Helpline** – Free support and counselling for people aged 5 to 25. Available 24 hours, 7 days a week.
1800 551 800

Terminology

There is no single set of terminology that suits all situations and all people. No exclusion or harm of people is intended by the terms used in this consultation paper.

Throughout this paper, people who use coercive control are referred to as perpetrators. People who have experienced or are experiencing coercive control are referred to as victim-survivors. The term victim-survivors is understood to acknowledge the strength and resilience of people who have experienced or are currently living with violence and seeks to recognise the differences in preferences for how people who have experienced violence choose to identify.

Combatting financial abuse perpetrated through coerced directorships

Introduction

Financial abuse is a form of family and domestic violence that undermines a victim-survivor's economic independence and inhibits their ability to leave abusive relationships or rebuild their lives. Economic security plays a critical role in reducing the risk of gender-based violence. Economic abuse in the context of domestic, family and sexual violence affects more than 2.4 million Australians and costs the economy an estimated \$10.9 billion per year.¹ Financial abuse is a subset of economic abuse.

In 2024, the Australian Government commenced an audit of key Commonwealth systems to identify where they are being weaponised by perpetrators of family and domestic violence and to stamp out opportunities for systems abuse.¹ As an immediate response to the audit, in 2025, the Australian Government made an election commitment to embed safety in Commonwealth systems and close financial abuse loopholes, including by preventing perpetrators from using the tax and corporate systems to create debts as a form of coercive control and making perpetrators accountable for those debts if they do.

Perpetrators of financial abuse can exploit loopholes in tax and corporate systems to weaponise company directorships to create debt as a form of coercive control. Coerced directorships are a form of financial abuse causing financial and psychological harm to victim-survivors. This often involves a victim-survivor being coerced or fraudulently appointed as a straw director of a company. Under this arrangement, the perpetrator controls corporate decision-making and can retain profits, assets and other benefits of the company while leaving the victim-survivor liable for corporate misconduct the perpetrator engages in and certain debts they accrue.

As a key part of the Government's commitment to close financial abuse loopholes, Treasury is seeking feedback on policy options to address the vulnerabilities in tax and corporate systems that enable the misuse of company directorships as a form of coercive control. The proposed reforms are the next stage in delivering the Government's commitment to embed safety in Commonwealth systems by closing the loopholes that enable financial abuse through coerced directorships. In addition to the policy options set out in this paper, Treasury welcomes stakeholder views on opportunities to address other vulnerabilities in tax and corporate systems that can facilitate harms through coerced directorships.

Financial abuse through company directorships

Perpetrators can weaponise company directorships to perpetuate financial abuse in various ways. While this paper highlights three common examples of how company directorships can be misused, these are not always mutually exclusive and at times, can involve a combination of each of the scenarios below:



Fraudulent appointment – involving a perpetrator registering a victim-survivor as a director of a company fraudulently without their knowledge. Fraudulent appointments can also occur outside of the context of financial abuse or family and domestic violence.

¹ Australian Government, Department of the Prime Minister and Cabinet, [Unlocking the Prevention Potential: accelerating action to end domestic, family and sexual violence](#) p 100.



Coerced appointment – involving a perpetrator coercing a victim-survivor into signing a director appointment consent form through abuse such as verbal threats, financial abuse or physical violence. In these scenarios, there is significant variability in the extent to which a victim-survivor understands or has knowledge about their role as director.



Financial abuse following initial consent to appointment – involving a victim-survivor who initially consented to their appointment as director (potentially alongside the perpetrator as co-director) and actively participated in the management of a company for a period of time, which is later weaponised by the perpetrator to cause harm to the victim-survivor.

For ease of reference, the weaponisation of company directorships to create debt as a form of coercive control across each of these scenarios is collectively referred to as ‘coerced directorships’ in this paper, unless otherwise specified.

Victim-survivors often face long-term financial harm as a result of coerced directorships. Liability for debts can arise from guarantees and breaches of insolvency-related directors’ duties under corporations and tax laws. Victim-survivors often face resource constraints or other difficulties in obtaining professional advice to challenge these liabilities. As a result, victim-survivors may turn to bankruptcy as a near-term solution instead of challenging these liabilities. This experience may be compounded by other domestic or family violence related issues, including fleeing from the perpetrator, seeking secure housing, participating in parenting and property settlement proceedings and experiencing mental health impacts from abuse.

The weaponisation of company directorships as a form of coercive control is recognised in a range of inquiries and reviews, including the Parliamentary Joint Committee on Corporations and Financial Services’ 2024 Inquiry into the Financial Services Regulatory Framework in Relation to Financial Abuse (Financial Abuse Inquiry), the Taxation Ombudsman’s Review into the identification and management of financial abuse within the tax system and the Government’s Systems Abuse Audit.²

It is difficult to quantify the prevalence and impact of coerced directorships, as the true scale of the issue is obscured by victim-survivors declaring bankruptcy, which can mask the underlying coercive circumstances. Insights provided by victim-survivor advocacy groups suggest that coerced directorships are generally observed in small to medium sized businesses and in the context of intimate partner relationships, however, they can also occur in other relationships where there is a power imbalance. Based on these insights, the majority of victim-survivors of financial abuse through coerced directorships are women.

Coerced directorships undermine the integrity of corporate and tax systems by allowing perpetrators to control companies without appropriate governance, accountability or transparency. When perpetrators act as the controlling mind behind a company without being formally appointed as a director, they can evade regulatory oversight, distort governance structures, and mislead third parties who engage with the company in good faith, such as credit providers, suppliers and employees. This erodes public trust in the corporate system and exposes third parties to increased financial and operational risk in their dealings with companies.

² Australian Government, Financial Abuse Inquiry, [Financial abuse: an insidious form of domestic violence](#), 2024, paragraphs 5.46-5.53, Australian Government, Tax Ombudsman, [Review: Identification and management of financial abuse within the tax system - Tax Ombudsman](#), April 2025; Australian Government, Department of the Prime Minister and Cabinet, [Unlocking the Prevention Potential: accelerating action to end domestic, family and sexual violence](#).

Reforming the structural vulnerabilities that facilitate coerced directorships is essential to both strengthening protections for victim-survivors and promoting the integrity of tax and corporate systems.

Questions on the experience of coerced directorships:

1. Are there any additional ways companies are misused to perpetuate financial abuse and coercive control?
2. What types of debts, liabilities or harms are typically created through coerced directorships?

Objectives and key principles

The objective of the proposed reforms is to reduce the prevalence and impact of coerced directorships. Legislative change across the *Corporations Act 2001* (Corporations Act) and the *Taxation Administration Act 1953* (TAA) may be required to achieve this objective. Treasury recognises that adjustments to these frameworks may have impacts across various economic and social systems and carry the risk of unintended consequences. To manage these risks, Treasury has sought to develop reform options that are guided by three key principles. These are designed to ensure that policy options are appropriate and strengthen protections for victim-survivors without creating unintended consequences that adversely impact the broader operation of economic and social systems.

Victim-survivor safety

Policy options should be practical, accessible and responsive to the needs of victim-survivors. This includes ensuring reforms are designed and implemented in a trauma-informed way to promote meaningful and safe outcomes. Careful consideration is required to assess the practical impact of policy options to avoid unintended consequences or perverse effects that exacerbate harm towards victim-survivors, such as the risk of retaliation. Policy options should recognise that while women, children, people living with disabilities, culturally and linguistically diverse, and First Nations communities are disproportionately affected by financial abuse, these groups are not homogenous.³ The experiences, needs and vulnerabilities of victim-survivors vary across these cohorts. In some areas, a tailored approach may be required to reduce harm and ensure policy responses reflect the diversity within and across victim-survivors.

Promoting system integrity

Confidence in corporate and tax systems is critical to the functionality of Australia's economic and regulatory frameworks. Policy options should promote confidence in tax and corporate systems by addressing vulnerabilities that enable systems abuse to occur, without creating unintended consequences or perverse effects that create the risk of harm to others or compromise integrity of corporate and tax systems.

³ Australian Government, Financial Abuse Inquiry, [Financial abuse: an insidious form of domestic violence](#), 2024, paragraphs 1.27, 1.28 and 1.32;
Economic Abuse Reference Group, [Submission 108 Response to inquiry into financial services regulatory framework in relation to financial abuse](#), 2024, p 14.

Proportionality

Policy options should be proportionate and minimise unintended consequences or excessive compliance costs to the broader regulated population. This may involve a combination of targeted interventions and system-wide adjustments, where appropriate.

Policy options for discussion

Coerced directorships involve a spectrum of coercive control tactics, with variability in the extent to which victim-survivors are aware of their roles or are involved in the management of the company. Addressing this misuse requires a multi-faceted response, recognising the various ways this form of financial abuse can be perpetuated.

Treasury has identified opportunities to address vulnerabilities in the tax and corporate systems to reduce the prevalence and impact of coerced directorships. This paper seeks feedback on policy options across four key areas:

- reducing the prevalence of coerced directorships by strengthening the director registration and removal process, including director consent requirements in the Corporations Act
- reducing the impact of coerced directorships by expanding the defences available for breaches of insolvency-related directors' duties and director penalty notices (DPN)
- supporting coerced directors to respond to a DPN; and
- exploring safe mechanisms to hold perpetrators to account.

It is intended that reforms to address coerced directorships would introduce common concepts across tax and corporate systems to ensure that the underlying behaviour is treated consistently. This paper seeks views from stakeholders on introducing a definition of 'coercive control' in the Corporations Act and TAA to set a clear and consistent scope for the application of certain reform options. The references to the term 'coercive control' across the reform areas in this paper should be read in the context of the proposed definition set out in this paper (see *'Defining coercive control'*).

There are other registers of company information administered by the Office of the Registrar of Indigenous Corporations and Australian Charities and Not-for-profits Commission, which are out of scope for this consultation.

Consent to becoming the director of a company

Directors are central to upholding strong corporate governance through transparency and accountability and carry significant legal responsibilities in line with this. These responsibilities are embedded in legal frameworks and governance standards that require directors to act honestly, in good faith, and in the best interests of the company. The strength of corporate governance depends on the integrity of company officeholders. Coerced directorships weaken the foundation of responsible corporate governance by undermining the principles of consent, independence and accountability. This heightens the risk to third parties engaging with companies and undermines confidence in the corporate system.

Consent requirements for directors are an important part of preventing coerced directorships. Appointment as a director can lead to the exposure of victim-survivors to liability for corporate misconduct or failure, including DPNs and responsibility for insolvent trading. Treasury is exploring options to strengthen the integrity of the corporate system and ensure that persons who assume the

role of a director do so with their full and informed consent. In particular, Treasury is exploring options to improve the pathways for director appointment and removal, and company registration processes.

Strengthening the director registration and appointment process

The Corporations Act currently requires that, prior to appointment as a director, a company must obtain signed consent from the individual and keep a record of this consent.⁴ On assuming the role of a director, a person is liable for all the obligations and responsibilities attached to that role, including management and control of the company's obligations and duties to regulate their behaviour.⁵ The Australian Securities and Investments Commission (ASIC) publishes information about directors on its public register of company information (Companies Register). A company cannot come into existence without at least one director, and a director's resignation has no effect if the company has no other directors.⁶ This means that a company cannot operate without a director and must be closed through either deregistration or winding up.⁷

The current director registration process heavily relies on an individual's signature as evidence of consent. In circumstances of family and domestic violence, a perpetrator may coerce a victim-survivor into signing a document or fraudulently provide the victim-survivor's signature. In some instances, intermediaries and professionals including agents, accountants, finance professionals and lawyers may be aware of, or careless as to the existence of, the coerced or fraudulent appointment of a victim-survivor as a director or facilitate the coerced or fraudulent appointment.

In November 2021, the Corporations Act was reformed to require eligible officers to have a Director Identification Number (Director ID).⁸ The Director ID is a unique identifier for directors and introduces identity verification to help prevent the use of fraudulent director identities.⁹ In the context of the stabilisation of Australia's business registers, the Government endorsed and provided funding in the 2025-26 Budget to link the Director ID database to the Companies Register.¹⁰ This will restrict instances of coerced directorships through the verification of director identities, making it more difficult for perpetrators to fraudulently register directors without their consent.

In addition to changes to Director ID, there is an opportunity to further strengthen the director registration or appointment process to respond to the dynamics of coerced directorships. Strengthening the existing consent requirements for directors could support efforts to prevent coerced directorships from occurring and further support the timely removal of coerced directors from the Companies Register (see *'Improving pathways for director removal and resignation'*).

⁴ *Corporations Act 2001* (Cth) s 201D. Failure to comply with these provisions attract strict liability offences of up to 30 penalty units (currently \$9,900).

⁵ See for example *Corporations Act* ss 180-183; 588G. See also ASIC, [Obligations of company officeholders](#).

⁶ *Corporations Act 2001* (Cth) ss 201A, 203AB.

⁷ See *Corporations Act 2001* (Cth) ss 601AA-601AB for deregistration; *Corporations Act 2001* (Cth) part 5.4-5.6 for winding up.

⁸ *Corporations Act 2001* (Cth) s 1272C.

⁹ Australian Business Registry Services, [Verify your identity](#), April 2025.

¹⁰ Budget 2025-26, [Budget Paper No. 1 | Budget 2025-26](#), p 27.

Possible improvements to the director registration and appointment process

- Improve safeguards in the director and company registration processes to ensure persons appointed or recorded as directors have provided their full and informed consent. This includes strengthening consent requirements and ensuring there are sufficient consequences for persons involved in the registration or appointment of a director without their full and informed consent.

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

Improving pathways for director removal and resignation

There are three avenues currently available to an individual who is seeking to be removed as a director of a company and from the Companies Register:

- a court order to change register details where there is an error or irregularity¹¹
- the use of an administrative process managed by ASIC to remove non-consenting directors; or
- the resignation or removal of a director by written notice to the company.

Removal from the Companies Register

ASIC currently manages an administrative process that enables directors who have not provided consent to seek to be removed from the Companies Register.¹² In these circumstances, ASIC can request evidence of consent, including a copy of the signed consent kept by the company consistent with its obligations under the Corporations Act.¹³ If ASIC determines a person was not properly appointed and has not performed the role of a director, ASIC may be able to withdraw and remove the person from the Companies Register. An individual can also apply to the court to apply to be removed from the Companies Register. Further challenges may arise if the person is the sole director of the company, as companies are required to have at least one director at all times.

Strengthened consent requirements for directors discussed above could support the timely and efficient removal of non-consenting directors. This would enable a director to seek removal from the Companies Register in circumstances where they were coerced into their appointment and, as a result, did not participate in the management of the company. This may require consideration of the evidentiary standards required to establish consent and the presence of coercive control (see '*Defining coercive control*').

Resignation

A person who consented to their appointment but no longer wishes to hold the role of director may consider resigning or retiring from the company. This may include circumstances where a person

¹¹ The court may, on application by any interested person, make an order directing the rectification of any register kept by ASIC under the Corporations Act per *Corporations Act 2001* (Cth) s 1322(4)(b).

¹² ASIC, [If you did not consent to be a company officeholder](#).

¹³ *Corporations Act 2001* (Cth) s 201D.

consented to their appointment as a director and subsequently experienced coercive control which precludes their ongoing active participation in the company. In this case, the resignation or retirement would only take effect prospectively and the person could be liable as a director for the period they were a director. A non-consenting director would not need to consider resignation or retirement as they were never validly appointed as a director and should consider removal from the Companies Register instead.

A director can resign or retire by providing a written notice of resignation to the company, and the company must notify ASIC that the person is no longer a director within 28 days.¹⁴ The director resigning may also provide notice of their resignation to ASIC directly, but this is not required.¹⁵ Where a perpetrator is involved in the management of the company, coerced directors may be reluctant to provide their resignation to the company due to a perceived or actual risk of retaliation. There may be an opportunity to provide coerced directors an avenue to apply to ASIC to resign, rather than the company. This would involve empowering ASIC to effect a valid resignation of a director, irrespective of any contractual obligations requiring direct notification from the director to the company. This may assist in managing the risk of retaliation or duress from a perpetrator where the victim-survivor may otherwise be required to provide their resignation directly to the company.

In the case of sole directors experiencing coercive control, additional challenges arise in relation to resignation, as a director's resignation has no effect if the company has no other directors. This may result in a director being effectively trapped in the role as the company continues to incur liabilities. There is an opportunity to provide sole directors an opportunity to resign and empower ASIC in these circumstances to deregister the company or order the winding up of the company. This may reduce the risk of a proliferation of registered companies without a director and prevent a shadow director from continuing to operate.

Any expansion of the existing director removal process requires careful consideration in relation to the impact on assumptions that third parties dealing with a company can make about officers or agents of a company.¹⁶ To support corporate transactions, the assumptions allow a third party to assume that a director has been validly appointed and delegated the authority to exercise the powers and duties expected of them on behalf of the company.

Possible improvements to the pathways for director removal or resignation

- Strengthen ASIC's powers to remove non-consenting directors, including powers to deregister or wind-up companies that do not have directors appointed with sufficient evidence of full and informed consent.
- Expand the avenues available for resignation so that coerced directors who are unable to participate in the management of the company due to coercive control could resign by application to ASIC, instead of the company.
- There are several factors that must be considered under these improvements, including the criteria for directors to access these processes (such as experience of coercive control and evidentiary requirements – see *'Defining coercive control'*), the impact of the resignation on the company and third parties and any potential risk of retaliation from a perpetrator against a victim-survivor for accessing director removal or resignation processes.

¹⁴ *Corporations Act 2001* (Cth) ss 203A, 205B(5).

¹⁵ *Corporations Act 2001* (Cth) s 205A.

¹⁶ *Corporations Act 2001* (Cth) ss 128, 129.

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

Responsibility for corporate governance and consequences for corporate failure

Current corporate governance framework

Company directors are subject to obligations and duties under corporations law that are aimed at ensuring effective corporate governance and protecting persons investing in, or who have commercial dealings with, corporate entities. Directors' duties are a key aspect of this framework. The duties require a minimum level of care, diligence and involvement in a company and provide, in the event of corporate failure, an avenue for the corporate veil to be pierced and directors to be held personally liable for certain debts and corporate liabilities. Where a perpetrator engages in actions that lead to a breach of directors' duties, coerced directors may be exposed to a range of harms and liability including criminal and civil liability, personal liability for company debts and psychological stress.

A director who actively participated in the management of a company at one time, and later resigns or retires, remains responsible for their actions for the period of time they were a director. In the case of a coerced directorship, this means resignation or retirement will not remove liability for actions taken while acting as a director, including any debts accrued in the circumstances of corporate failure. However, coerced directors may look to establish a defence to liability, including for breaches of directors' duties relating to insolvency.

Directors' duties relating to insolvency are a key mechanism that can be exploited by perpetrators of financial abuse as they enable directors to be personally liable for company debts. This includes:

- the directors' duty to prevent insolvent trading¹⁷
- the directors' duty to prevent creditor-defeating dispositions;¹⁸ and
- voidable transactions.¹⁹

The director's duty to prevent insolvent trading and to prevent creditor-defeating dispositions are civil penalty provisions carrying a penalty of the greater of 5,000 penalty units (currently \$1.65 million) or

¹⁷ *Corporations Act 2001* (Cth) s 588G.

¹⁸ *Corporations Act 2001* (Cth) s 588GAB.

¹⁹ *Corporations Act 2001* (Cth) s 588FE.

three times the benefit obtained, and detriment avoided.²⁰ The directors' duty to prevent insolvent trading carries a criminal offence of 5 years imprisonment, 2,000 penalty units (currently \$660,000) or both.²¹ The duty to prevent creditor-defeating dispositions is also a criminal offence carrying a penalty of 10 years imprisonment.²²

Strengthening defences for insolvency-related directors' duties

The Corporations Act sets out a range of defences available to breaches of directors' duties. This includes a defence for directors who because of illness or for some other good reason, did not take part in the management of the company at the time the debt was incurred (some other good reason defence).²³ Coerced directors may face challenges accessing this defence.

There may be opportunities to strengthen the defences available to ensure coercion and financial abuse can be valid reasons for failing to participate in the management of a company. For example, clarification to specifically capture coercive control could be introduced either through reforms to the existing defence or by introducing a new defence. Introducing an explicit reference to coercive control in the defences to insolvency-related directors' duties may increase awareness of the risk of financial abuse and coercion in this context. It may support more victim-survivors raising a defence in response to demands from liquidators, rather than negotiating a settlement or proceeding to bankruptcy. This may also empower liquidators and creditors to consider evidence of coercion or financial abuse in determining whether to take action to enforce debt or a liability.

A similar some other good reason defence exists for DPNs under the TAA (see '*Strengthening defences for director penalties*'). It is intended that any reform to the some other good reason defences under the Corporations Act and TAA would occur in parallel.

Strengthening defences for insolvency-related directors' duties

- Strengthen defences for breaches of insolvency-related directors' duties for directors who did not take part in the management of the company (or did not take part at the relevant time) because they were experiencing coercive control.
- This would be supported by a new definition for 'coercive control' in the law to guide the scope and application of the defence across both tax and corporate systems (see '*Defining coercive control*').

²⁰ *Corporations Act 2001* (Cth) s 1317E.

²¹ *Corporations Act 2001* (Cth) s 588G(3).

²² *Corporations Act 2001* (Cth) Schedule 3.

²³ *Corporations Act 2001* (Cth) s 588H(4).

Questions on 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?
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?
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?

Responsibility for tax and superannuation liabilities

Current framework of the director penalty regime

A director is responsible for ensuring that their company's tax and superannuation obligations are reported and paid on time or the company goes promptly into voluntary administration, restructuring or liquidation.²⁴ Where certain liabilities are not paid by the due date, a director becomes personally liable for the company's debts incurred while they were a director, or that were unpaid when they were appointed and remain unpaid after 30 days, through the imposition of director penalties.²⁵

Director penalties are parallel personal liabilities that operate to deter company directors from engaging in fraudulent phoenix activities or using amounts for company or other purposes that should be paid to the Commissioner of Taxation (Commissioner) or employee superannuation funds.

Director penalties are another key mechanism that can be exploited by perpetrators of financial abuse. Where a perpetrator engages in actions that give rise to director penalties, coerced directors can find themselves burdened by financial distress and at risk of being pursued by the Commissioner for recovery of penalty amounts despite potentially having no knowledge of, or contribution to the accrual of, the underlying company debts. A coerced director who is unable to be removed from the Companies Register and finds themselves personally liable for director penalties for their company's unpaid tax and superannuation liabilities may seek to take one of the available options to remit the penalty or establish a defence to liability for the penalty.

Supporting coerced directors to respond to director penalties

The Commissioner must not commence proceedings to recover a director penalty until 21 days after they give a DPN to the director.²⁶ During this time, the director can take action to remit the penalty by paying the debt in full or, for penalties that have not become 'lockdown', by ensuring that the company goes into voluntary administration, restructuring or liquidation.²⁷

If action to remit the penalty is not taken within this period, the Commissioner may commence action to recover the penalty amounts. Recovery action can include issuing garnishee notices to third parties, offsetting a director's personal credits against amounts owing, and initiating legal recovery proceedings.

²⁴ *Taxation Administration Act 1953* (Cth) ss 269-5, 269-15 of Schedule 1.

²⁵ Broadly, unpaid amounts of Pay-As-You-Go (PAYG) withholding, Goods and Services Tax (GST) or Super Guarantee Charge (SGC), *Taxation Administration Act 1953* (Cth) s 269-20 of Schedule 1.

²⁶ *Taxation Administration Act 1953* (Cth) s 269-25 of Schedule 1.

²⁷ *Taxation Administration Act 1953* (Cth) s 269-30 of Schedule 1.

Coerced directors often face significant barriers to achieving remission of the penalty.²⁸ Postal times can mean that, in practice, a director has less than 21 days to obtain advice and take appropriate action for their circumstances. In the case of coerced directorships, many directors are unable to act within the 21 days, if at all, due to delayed awareness of the company's financial affairs and any associated tax liabilities, lack of access to appropriate legal or financial support, or the ongoing impacts of abuse.

The Commissioner's practice is to engage with a company about its debts prior to moving to issue the company's directors with DPNs. However, in the case of coerced directorships, coerced directors may only learn of their liability for director penalties after issue of the DPN and, at times (for example, where the director's listed address is controlled by the perpetrator) this can be after recovery action has commenced.

The Commissioner is usually similarly unaware of the coerced director's circumstances unless the director brings this to their attention, and in most cases, this only occurs after issue of a DPN. However, once the Commissioner is made aware of a coerced director's circumstances, they can take this into account in deciding on next actions. This can include pausing recovery action while coerced directors are preparing a defence, noting that the law does not require that the Commissioner commence recovery action on expiry of the 21-day period.

The director penalty regime outlines circumstances in which a director is not liable for director penalties (see '*Strengthening defences for director penalties*'). A director can ask the Commissioner to consider a defence within 60 days after being notified that the Commissioner has recovered, or has issued a garnishee notice to recover, some or all of the penalty, or as a defence to legal recovery proceedings.²⁹ The Commissioner can also consider defences outside the 60-day period, including before recovery proceedings are commenced, and if accepted, a coerced director's liability will be removed and any amount collected refunded.

There is an opportunity to better support coerced directors to respond to director penalties through improving avenues for bringing their circumstances to the Commissioner's attention and ensuring that coerced directors have sufficient time to seek appropriate independent advice and provide information to the Commissioner where a defence is raised in circumstances involving reasonable claims of coercive control.

Possible improvements to support coerced directors to respond to director penalties

- Explore further opportunities for coerced directors to engage with the Australian Taxation Office (ATO) and bring their circumstances to the Commissioner's awareness.
- Allow directors longer timeframes to take steps to have a DPN remitted or submit a defence in circumstances of coercive control.
 - There are several factors that need to be considered in settling on an appropriate timeframe, including the need to provide certainty for directors, employees, and the Commissioner in dealing with recovery of SGC.³⁰

²⁸ Financial Abuse Inquiry, 2024, paragraph 5.54, refers to DPNs as presenting a "particularly troubling issue" because they require a director to provide full payment of company tax debts (or to liquidate the company) within 21 days to avoid personal liability.

²⁹ *Taxation Administration Act 1953* (Cth) s 269-35 of Schedule 1.

³⁰ Explanatory Memorandum to the *Tax Laws Amendment (2012 Measures No 2) Act 2012*, paragraph 1.62.

Questions on 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?
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?
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?

Strengthening defences for director penalties

A director is not liable for director penalties if they can establish one of the available defences. A defence is available if a director did not take part in the company's management at any time during the period they were a director and the company was under the relevant tax and superannuation obligation, due to illness or some other good reason, and it would have been unreasonable for them to have taken part (some other good reason defence).³¹

A defence is also available where a director took all reasonable steps to ensure that the company complied with its obligations, or caused the company to go into voluntary administration, restructuring or liquidation, or there were no reasonable steps the directors could have taken to ensure that any of those things happened (all reasonable steps defence).³²

While the ATO considers each taxpayer's circumstances on a case-by-case basis, including any coercion, the scope of currently available defences may not cover all the circumstances in which the community may expect relief to be available to a victim-survivor.

To establish the some other good reason defence, victim-survivors need to show that they did not participate in the management at all during the relevant period. For victim-survivors, even minimal or passive involvement, such as signing a document or attending a meeting under coercion, may disqualify them from relying on this defence.

While victim-survivors may be able to satisfy the all reasonable steps defence where they were not previously aware of their directorship, or did not ever have any ability to control company affairs, because they will have taken all reasonable steps (being all steps a reasonable person would have taken in their position), it can also be harder for them to establish this defence in circumstances where the financial abuse or coercive control occurred following initial consent to be a director.

Victim-survivors who cannot establish one of the defences face the risk of personal liability and bankruptcy, despite having no control over the company's affairs.

There is opportunity to provide relief for additional circumstances for which neither defence is currently available for coerced directors by introducing a new defence to explicitly recognise coerced directorships as a reason for not being involved in the management of the company (see *'Strengthening defences for insolvency-related directors' duties'*).

³¹ *Tax Administration Act 1953* (Cth) s 269-35(1) of Schedule 1.

³² *Tax Administration Act 1953* (Cth) s 269-35(2) of Schedule 1.

Enhancing defences under the tax law

- Strengthen defences for directors who did not take part in the management of the company (or did not take part at the relevant time) because they were experiencing coercive control.
- This could be achieved by introducing a new defence that would be supported by a new definition of ‘coercive control’ in the law to guide the scope and tailored evidentiary requirements, and application of the defence across both tax and corporate systems (see *‘Defining coercive control’*).

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

Holding perpetrators to account

Individuals who perpetrate or support financial abuse through corporate and tax systems should be held to account for this harm and for debts created. This includes intermediaries and professionals such as finance professionals, accountants, and lawyers who enable, or are careless as to the existence of, coerced directorships.

Coerced directorships inflict significant harm on victim-survivors and undermine corporate and tax systems by allowing perpetrators to control companies without accountability or transparency. This erodes public trust and confidence in the integrity of companies and increases risk to third parties such as investors, suppliers and employees in their dealings with companies.

Existing offences are available to hold individuals responsible for corporate misconduct, particularly fraudulent behaviour that results in the registration of a person as a director without their knowledge or consent. For example:

- It is a criminal offence for a person to provide materially false and misleading information to ASIC, such as fraudulent director appointment or director resignation forms.³³ Consequences involve five years imprisonment.³⁴ Civil penalties attached to the provision of false and misleading information carry a maximum civil penalty for individuals which is the greater of 5,000 penalty units (currently \$1.65 million) or three times the benefit obtained and detriment avoided.³⁵

³³ *Corporations Act 2001* (Cth) s 1308(1).

³⁴ *Corporations Act 2001* (Cth) Schedule 3.

³⁵ *Corporations Act 2001* (Cth) ss 1308(4) – 1308(5), 1317E.

- There are strict liability offences for companies that fail to obtain a person's signed consent to act as a director before their appointment or if the company fails to keep a record of the consent.³⁶ Consequences for companies who fail to obtain signed consent involve 30 penalty units (currently \$9,900) and consequences for not keeping that consent involve 20 penalty units (currently \$6,600).³⁷

Perpetrators who take part in the management of the company (or are its controlling mind) may also be held responsible as directors, including for breaches of directors' duties or certain debts created in insolvency. This is because the definition of a 'director' in the Corporations Act includes individuals who act in the capacity of a director, even where they are not formally appointed to the position (considered to be a 'shadow director').³⁸ Shadow directors are subject to the same duties and responsibilities as directors that are formally appointed to the board (or recorded in the company's register).

Liquidators and creditors (including the ATO) may pursue perpetrators who are shadow directors for the repayment of certain debts created through the company, including DPN debts and debts created in insolvency. ASIC may also pursue shadow directors for breaches of directors' duties under the Corporations Act. If found liable, shadow directors can face significant civil and criminal penalties, including disqualification from managing corporations, compensation orders and where dishonesty is involved, criminal prosecution with penalties of up to five years imprisonment.

However, in practice, it may be difficult to establish a perpetrator as a shadow director (and pursue them for compensation, penalties or debts in an insolvency context on that basis). This is because these claims rely on evidence about that person's participation in the management of the business, rather than their status through a formal appointment.

In some cases, perpetrators may engage in this behaviour in circumstances where they have been personally disqualified from managing corporations. The coerced directorship can be used as a mechanism by the perpetrator to avoid the practical consequences of their disqualification and enable them to continue to exert control over the affairs of a company or business.

Perpetrators should be held to account for engaging in corporate misconduct or fraud in the context of coerced directorships. Intermediaries such as accountants or lawyers should also face appropriate consequences where they knowingly or recklessly facilitate or enable the weaponisation of company directorships.

There are opportunities to strengthen the consequences perpetrators face, including ensuring the law reflects the various ways perpetrators (including intermediaries) weaponise company directorships, and imposes appropriate penalties to both punish and deter future abuse. Treasury also welcomes feedback on opportunities to further empower parties such as ASIC, the ATO, liquidators and creditors to identify and pursue perpetrators who act as shadow directors.

³⁶ *Corporations Act 2001* (Cth) s 201D.

³⁷ *Corporations Act 2001* (Cth) Schedule 3.

³⁸ *Corporations Act 2001* (Cth) s 9.

Strengthening consequences to hold perpetrators to account

- Consequences for companies (and people involved) in fraudulent or coerced director appointments could be strengthened, including imposing higher pecuniary penalties and ensuring crimes are punishable with terms of imprisonment, where appropriate. This could also include ensuring there are sufficient consequences and deterrence measures in place for intermediaries and professionals knowingly or recklessly involved in fraudulent or coerced director appointments.
- Perpetrators who are disqualified from managing a company and use fraudulent or coerced directorships to avoid the practical consequences of their disqualification should be subject to escalating consequences, such as extended or permanent periods of disqualification, civil and criminal penalties.

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

Defining coercive control

The reforms discussed in this paper could be supported by introducing a definition of coercive control in the Corporations Act and carrying it through to the director penalty regime in taxation law. There is currently no agreed formal definition of coercive control used across Australian legislation; however, states and territories have taken steps to criminalise coercive control.³⁹ The National Principles to Address Coercive Control in Family and Domestic Violence (Principles) developed and endorsed by the Commonwealth and all state and territory governments also support a shared understanding of coercive control. The Principles identify a common feature of coercive control as perpetrators exerting power and dominance over a victim-survivor using patterns of abusive behaviours over time that create fear and deny liberty and autonomy, including physical and/or non-physical abusive behaviours.

To the extent appropriate, a definition of coercive control would leverage existing definitions within state and Commonwealth frameworks and reflect the different contexts in which financial abuse may occur. *The Telecommunications (Domestic, Family and Sexual Violence Consumer Protections) Industry Standard 2025* (Telecommunications Industry Standard) includes a definition of coercive control.

³⁹ See for example, *Crimes Legislation Amendment (Coercive Control) Act 2022 No 65 (NSW)*; *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024 (QLD)*.

Definition of coercive control in the Telecommunications (Domestic, Family and Sexual Violence Consumer Protections) Industry Standard 2025

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.

In the context of coerced directorships, the harm caused by coercive control includes the coerced appointment as a director and exposing victim-survivors to the financial and legal liabilities incurred by virtue of the role of director (including where appointment was not initially coerced). These harms often arise when the perpetrator controls corporate decision-making through the victim-survivor, leading to breaches of directors' duties relating to insolvency and DPNs. Any definition of coercive control for the purposes of consent to director appointment in the Corporations Act would need to appropriately reflect the harm and typical conduct that occurs in the context of coerced directorships.

Victim-survivors' experience of coercive control can be extremely varied and requirements to produce evidence to demonstrate this experience can potentially cause re-traumatisation for the victim-survivor and vicarious trauma for those who review the evidence. It is important that evidentiary requirements are trauma-informed and accessible. Consideration must also be given to ensuring the defences are only accessed for their intended purpose and not misused.

Questions on 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?
24. What are the appropriate types of evidence that would demonstrate the occurrence of coercive control?
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?
26. Do other key terms need to be defined?