

6 June 2024

The Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: economics.sen@aph.gov.au

Dear Secretary

Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024

Thank you for the opportunity to provide a submission to the Committee's inquiry into the Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024 (the **Bill**).

ARITA is the professional body for professionals practicing in the area of financial distress and as such we have only considered the Bill to the extent that it relates to amendments to the safe harbour legislation that are aimed at simplifying the legislation and making it more readable.

ARITA has long advocated for a defence from inadvertent insolvent trading – we were the initial proponents of the concept in 2007 and part of the group of associations that created the framework in 2010 and then drove it as a key policy area from 2014 and its recommendation by the Productivity Commission in its 2015 report¹. Safe harbour was designed to provide “breathing space”, “opportunity” and “confidence” for businesses that were viable in the long run but experiencing financial difficulty. We believe the safe harbour regime is doing what it originally conceived to and is delivering for creditors, investors and workers.

Consistent with the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services review of Corporate insolvency in Australia in July 2023, ARITA

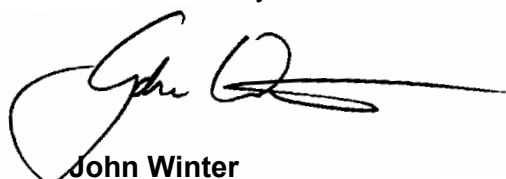
¹ Productivity Commission, Inquiry Report No. 75, Business Set-up, Transfer and Closure (September 2015)

strongly endorses the immediate implementation of the recommendations of the Safe Harbour Review², including the proposed amendments in the Bill implementing recommendations 3, 6, 8 and 9 made by the Safe Harbour Review.

In addition to the above, we note that the Joint Parliamentary Committee made a wide range of recommendations relating to Australia's insolvency system in its report tabled eleven months ago. It is very disappointing the work on a long-term comprehensive review has not commenced nor is there any sight of legislation dealing with uncontroversial amendments dealing with trusts, small business restructuring and simplified liquidations, despite us having provided detailed drafting suggestions to the Assistant Treasurer, the Australian Securities and Investments Commission and the Minister for Small Business many months ago. These more immediate reforms would greatly assist small businesses experiencing financial difficulties in the current economic environment.

Should you wish to discuss any of these matters further with ARITA, please do not hesitate to contact our Technical & Standards Director, Ms Narelle Ferrier on 02 8004 4350.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Winter', with a long horizontal flourish extending to the right.

John Winter
Chief Executive Officer

² Treasury, Review of the Insolvent Trading Safe Harbour, 23 November 2021