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INSOLVENCY REFORMS TO SUPPORT SMALL BUSINESSES RECOVERY

The Morrison Government will undertake the most significant reforms to Australia's insolvency framework in 30 years as part of our economic recovery plan to keep businesses in business and Australians in jobs.

The reforms, which draw on key features from Chapter 11 of the Bankruptcy Code in the United States, will help more small businesses restructure and survive the economic impact of COVID-19. As the economy continues to recover, it will be critical that distressed businesses have the necessary flexibility to either restructure or to wind down their operations in an orderly manner.

Key elements of the reforms include:

- The introduction of a new debt restructuring process for incorporated businesses with liabilities of less than \$1 million, drawing on some key features of the Chapter 11 bankruptcy model in the United States.
- Moving from a rigid one-size-fits-all “creditor in possession” model to a more flexible “debtor in possession” model which will allow eligible small businesses to restructure their existing debts while remaining in control of their business.
- A rapid twenty business day period for the development of a restructuring plan by a small business restructuring practitioner, followed by fifteen business days for creditors to vote on the plan.
- A new, simplified liquidation pathway for small businesses to allow faster and lower cost liquidation.
- Complementary measures to ensure the insolvency sector can respond effectively both in the short and long term to increased demand and to meet the needs of small business.

The reforms will cover around 76 per cent of businesses subject to insolvencies today, 98 per cent of whom who have less than 20 employees.

Together, these measures will reposition our insolvency system to reduce costs for small businesses, reduce the time they spend during the insolvency process, ensure greater economic dynamism, and ultimately help more small businesses get to the other side of the crisis.

On 22 March 2020, the Government announced temporary regulatory measures to help financially distressed businesses get to the other side of COVID-19. On 7 September 2020 the Government announced a further extension of this relief to 31 December 2020. The new processes will be available for small businesses from 1 January 2021.

Further information on the measures can be found on the Treasury website.

Ends.

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