

SMALL BUSINESS CONFIDENCE AND CONDITIONS

Headline Statement

- The Government is acting to support SMEs through challenging circumstances caused by labour shortages, inflationary pressures and increasing business costs.
- Recently, SME conditions have fallen further below the conditions for all businesses than at any other time recorded (since June 2006).
 - For the smallest SMEs (turnover between \$2-3 million) the effect is even greater.
 - Business confidence, however, remains similarly negative for SMEs and larger businesses.
- The capacity for small businesses to absorb higher costs is more limited compared to larger businesses because margins are typically thinner, and operating costs are relatively higher.

Key Points

- Global and domestic supply shocks have eased with Treasury expecting a further improvement in inflation.
 - Globally, the impacts of Russia's invasion of Ukraine and stressed supply chains on inflation and energy security have eased.
 - In Australia, some domestic pressures have also begun to subside in the March and June quarters of 2023, including the passing of severe flood conditions.
- Despite these improvements, high prices for oil and electricity due to high international prices and domestic market disruptions continue to pass through to energy bills of businesses.

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- Almost three-quarters of SMEs continue to report significant difficulty finding suitable labour and cost pressures remain elevated. These economic circumstances are affecting conditions for SMEs more than their larger counterparts given their relatively higher operating costs and thinner margins.

NAB SME Business Survey

- In Quarter 2 2023, SME conditions were 8 index points lower than business conditions (that is, the total of small, medium and large) across the whole economy.
 - For the smallest SMEs (turnover between \$2-3 million), conditions were 14 index points lower than business conditions across the economy.

NAB Quarterly Business Survey

- In *Quarter 2 2023*, SME conditions fell sharply, by 11 points to +1 index point in the quarter, which is below average for the first time since Quarter 3 2020.
 - Conditions fell in all industries except Finance & Insurance. The largest falls in SME conditions were in Accommodation, Cafés & Restaurants, down by 37 points to -6 index points, and Health, down by 30 points to -6 index points. Conditions in Property Services and Retail also turned negative.
- SME confidence also declined slightly, decreasing 1 point to -7 index points in the quarter, and remained below average.
 - The largest declines in SME confidence occurred in Accommodation, Cafes & Restaurants, down 14 points to -7 index points (previously 7 index points) and Retail, which fell 9 points to -23 index points. Confidence in Finance & Insurance rose strongly, by 9 points, but remains low at -8 index points.

NAB Monthly Business Survey

- NAB's *Monthly Business Survey* for September 2023 (all businesses) reported that:
 - business conditions decreased 3 points to +11 index points, reversing a small rise in August, though remained 4 points above the long-run average; and
 - business confidence was steady at 1 index point, 4 points below the long-run average.

Policy Commitments

- The Government is providing targeted support to help improve the overall business operating environment, for example, by reducing energy price pressures for SMEs.
- The Energy Bill Relief Fund will provide up to \$3 billion in electricity rebates to eligible households and to each of the approximately 1 million businesses on small customer electricity plans to help cover their electricity bills.
 - While the Commonwealth is contributing \$325 in rebates to eligible businesses, total rebates will differ between jurisdictions, reflecting the different approaches that state and territory governments take.
- The Government will also provide a Small Business Energy Incentive to help up to 3.8 million small and medium-sized businesses save energy and save on their energy bills.
 - Businesses with an aggregated annual turnover of less than \$50 million will have access to a bonus 20 per cent tax deduction from 1 July 2023 until 30 June 2024.
 - This new incentive will apply to eligible assets and upgrades that support electrification and more efficient use of energy, up to \$100,000 of total expenditure (with the maximum bonus tax deduction being \$20,000).
 - It will help small businesses to make investments like electrifying their heating and cooling systems, upgrading to more efficient fridges and induction cooktops, and installing batteries and heat pumps.
- The Government is also providing additional support for Australian small businesses, including:
 - introducing a \$392.4 million Industry Growth Program that will help small business to innovate, adopt and adapt to digital technology;
 - \$23.4 million to help small businesses build their resilience to cyber security attacks through a new Cyber Wardens program delivered by the Council of Small Business Organisations Australia; and
 - \$15.1 million to strengthen the vital small business sector by providing small business owners across Australia with access to free mental health and financial counselling support.

Background

- There are three NAB surveys, which describe business confidence and conditions in the Australian economy.
 - Quarterly SME specific survey, which is the primary focus of this brief.
 - Quarterly survey across the economy (all business sizes), which is a useful reference for comparing against SMEs.
 - Monthly survey across the economy, which provides the most frequent and recent data, despite not being SME specific.

NAB SME Business Survey

- This quarterly survey offers insights into factors affecting small and medium business conditions by state, industry and size. It captures SMEs in the non-farming sector in Australia with an annual turnover between \$2 and \$10 million.
- Fieldwork for this survey conducted from 22 May to 8 June 2023, covering over 700 firms across the non-farm business sector.

NAB Quarterly Business Survey

- This quarterly survey provides a useful whole of economy reference for which to compare SME conditions and confidence.
- Fieldwork for this survey conducted from 27 May to 8 June 2023, covering over 900 firms across the non-farm business sector.

NAB Monthly Business Survey

- The NAB Monthly Business Survey is based on a telephone survey of small, medium and large non-farming companies and presents findings on business confidence and outlook.
- Fieldwork for this survey conducted from 18 to 28 September 2023, covering around 400 firms across the non-farm business sector.

PAYMENT TIMES TO SMALL BUSINESS

Headline Statement

- The Australian Government is committed to improving payment times for small businesses.

Key Points

- Long and late payment to small businesses impedes cash flow, revenue and financing and, in turn, constrains jobs growth, investment and innovation across the sector.
- Three measures aim to improve payment times for small businesses:
 - the Payment Times Reporting Scheme (the Scheme), where transparency around payment performance encourages large businesses and government enterprises to improve their payment practices;
 - the Payment Times Procurement Connected Policy, which leverages Australian Government procurement to improve payment times to small businesses in the supply chains of government contracts; and
 - the Supplier Pay On-Time or Pay Interest Policy, which requires Australian Government agencies pay invoices in 20 calendar days (and eInvoices in five calendar days) or pay interest on late payments.
- Since the commencement of the Scheme on 1 January 2021:
 - the average *payment term* for reporting entities to their small business suppliers is largely unchanged and sits at approximately 36 days;
 - there has been a small improvement in the *average time taken to pay* small businesses – the average number of invoices paid within 30 days has improved by almost 5 per cent.

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Policy Commitments

- The Australian Government tabled the independent review of the *Payment Times Reporting Act 2020* on 31 August 2023.
- The Government is considering the findings and recommendations of the Review to improve payment times to small businesses, consistent with its commitment to ensure small businesses are paid on time.

Background

Payment Times Reporting Scheme

- The Payment Times Reporting Scheme (the Scheme), enabled by the *Payment Times Reporting Act 2020* (the Act), commenced on 1 January 2021. The Act is administered by the Payment Times Reporting Regulator (the Regulator) within Treasury.
- The Scheme aims to improve payment times for small businesses by creating transparency around the payment performance of large entities operating in Australia. Encouraging these entities to improve their payment times will lead to fairer and faster payments to small businesses that, in turn, can help improve cashflow and provide more certainty for business planning.
- Under the Scheme, large businesses and government enterprises (known as reporting entities) must submit payment times reports to the Regulator every six months. These reports include information on their standard payment terms, actual payment performance, and the use of supply chain financing arrangements.
 - The Regulator publishes payment times reports on the Payment Times Reports Register (the Register), which is freely accessible on the Regulator’s website.
 - As at 16 October 2023 (the most recent Register update), the Register contains 46,188 payment times reports from 10,733 reporting entities.
 - Where reporting entities do not submit payment times reports, or provide false or misleading information, there are a range of enforcement tools available to the Regulator, ranging from publishing non-compliance on the Register to commencing court action for civil penalties.
- Small businesses have no regulatory obligations under the Scheme and they may opt out of being identified as ‘small’ in the SBI Tool if they consider that this could hinder them commercially.

Statutory Review of the Payment Times Reporting Act 2020

- The final report of the independent review of the *Payment Times Reporting Act 2020* (the Act) that was conducted by the Hon Dr Craig Emerson, and all non-confidential submissions, is publicly accessible on the Treasury website. This review was required under section 57A of the Act.
- The Review consulted with over 100 interested stakeholders, including small businesses, large businesses, industry associations, professional services firms and government agencies.
- The report made 14 recommendations, encompassing 23 actions for Government, according to three main themes:
 - overhauling the Payment Times Reporting Scheme, by clarifying objectives, simplifying who needs to report and what needs to be reported, improving the accessibility of information and addressing constraints on the effectiveness of the Regulator;

- leveraging the importance of reputation to large businesses, by publicly reporting worst and best payers and incorporating small business payment times in environmental, social and governance (ESG) obligations; and
- supporting a culture of prompt payment in Australia, through reforms that go beyond the Act and extend to unfair contract terms, unfair business practices, eInvoicing and government procurement.
- The timing and release of the Government’s Response to the Review is a matter for Government.

Independent Reviewer – Craig Emerson’s Remuneration

- The Government selected Dr Emerson from a short list of suitable candidates provided by Treasury. He has significant policy, regulatory and corporate experience, coupled with an understanding of the operating environment and pressures for small and large businesses.
- The engagement of Dr Emerson as the independent reviewer of the Payment Times Reporting Act 2020 Review was for the period from 29 November 2022 to 1 October 2023.
- Dr Emerson’s remuneration of \$1,500 per day and travel allowances are consistent with other comparable Treasury portfolio appointments and in line with the determinations and guidance of the Remuneration Tribunal.
- Over the course of the review, Dr Emerson invoiced Treasury eight times. These invoices had a total value of \$89,773.50.

Pay On-Time Survey

- The Pay On-Time Survey assesses the performance of the Australian Government against the Supplier Pay On-Time or Pay Interest Policy.
 - Up until 1 July 2022, the Supplier Pay On-Time or Pay Interest Policy required that Australian Government agencies pay invoices for contracts valued up to \$1 million within 20 calendar days, or within 5 days for eInvoices (with late payments incurring interest).
 - On 1 July 2022, the Finance Minister expanded the Policy and removed the \$1 million threshold (which we used as a proxy to identify contracts with SMEs).
- Treasury published on its website the last Pay On-Time Survey Performance Report for the 2021-22 financial year on 5 April 2023.
 - The report shows that government agencies paid 96 percent of invoices for contracts valued up to \$1 million within 20 days.

2023 - 2024 Supplementary Budget Estimates

SB23-000287

FRANCHISING CODE REVIEW

Headline Statement

- The Government is committed to supporting the franchising sector through a transparent and effective regulatory framework.
- On 15 August, the Government announced an independent review of the Franchising Code of Conduct (the Code). Eminent small business expert Dr Michael Schaper is undertaking the review and he is due to report no later than the end of December 2023.

Key Points

- The release of a public consultation paper for the review occurred on 22 August 2023 to provide stakeholders an opportunity to provide input into the review. The consultation period closed on 29 September 2023.
- The review has received 93 submissions as at 10 October 2023, with public submissions released along with the final report. Several stakeholders such as the ACCC and ASBFEO often published their submissions to such reviews as normal practice.
- Surveys of industry participants, including a survey which will run from 4–20 October seeking input from franchisees, will inform the review.
- The review of the Code will evaluate previous reforms and bring several reviews under one umbrella, including:
 - a statutory review of Part 5 of the Franchising Code (relating to New Vehicle Dealership Agreements)
 - a sunseting review of the Franchising Code (the Franchising Code is due to sunset on 1 April 2025)
 - a post implementation review (PIR) of the 2021 amendments to the New Vehicle Dealership Agreements part of the Code (Part 5)
 - : to ensure the policy is effective, working as intended and the scope of these protections is appropriate noting the Regulatory Impact Statement (RIS) exemption for these reforms

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- a statutory review of the Franchise Disclosure Register (from 15 November 2023).

Policy Commitments

- Wide public consultation will inform the review and Dr Schaper will report his finding and recommendations to Government by the end of December 2023.
- The terms of reference and consultation paper are available on the Treasury website.
- Following the Review, the Government will consider Dr Schaper's recommendations.

Background

- The Code is a mandatory code prescribed by regulation under the *Competition and Consumer Act 2010*. It governs the relationship between franchisors and franchisees and contains disclosure rules to address information gaps suffered by franchisees, rules and requirements to address power imbalances, and mechanisms for dispute resolution.
- The franchising code has an extensive history of reviews and amendments. The most recent reforms to the code respond to the 2019 *Fairness in Franchising* parliamentary report which contained 71 recommendations.
- Key reforms between 2020 to 2022 include:
 - the introduction of the automotive sector specific protections in Part 5 New Vehicle Dealership Agreements that improved end-of-term notification, transparency for capital expenditure requirements, and clarified options for dispute resolution
 - provision of the Franchise Disclosure Register administered by Treasury, which provides prospective franchisees access to information about a franchise system
 - the increase of penalties in the Code that took effect on 15 April 2022, to be a stronger deterrent against breaches of the Code's obligations.

Appointment

- The Minister for Small Business, the Hon Julie Collins MP, appointed Dr Schaper to conduct the review following a standard process where Treasury provided several suitably qualified candidates for the Minister's consideration.
- Dr Schaper's daily fee is \$1,500 per day (before any applicable GST) and travel allowances equivalent to tier two as set out in the *Remuneration Tribunal (Official Travel) Determination 2022*.
- Dr Schaper's daily rate is consistent with the rate for like appointments set by the Remuneration Tribunal for equivalent offices (for example, the Independent Reviewer appointed under the Food and Grocery Code of Conduct).
- A secretariat located within Treasury and comprising four staff supports Dr Schaper.

Scope of the Review

- Terms of reference for the review are available on the Treasury website.
- The Government has aligned four separate reviews of the Franchising Code into one review process to allow for effective consideration of the Franchising Code and reduce stakeholder fatigue.
- The review will be examining the current state of regulation and key issues for consideration under five broad themes:
 - the scope of regulation
 - before entering into a franchise agreement

- enduring obligations in franchise relationships
 - the end of a franchise relationship
 - enforcement and dispute resolution.
- In addition, general feedback is sought on whether the Franchising Code is fit for purpose, as it is due to expire on 1 April 2025 and will cease operation if not remade.

Mercedes-Benz Case

- On 30 August 2023, Justice Beach delivered his judgement on a case between 38 Mercedes-Benz dealers and their franchisor, Mercedes-Benz Australia/Pacific Pty Ltd.
- The trigger for the case was the manufacturer's decision to change its distribution model in Australia from a dealership model to a fixed price agency model.
- The case did not set out to test the recent automotive related amendments to the Franchising Code, but it did consider the obligation to act in good faith within the Code.
- The judgement found in favour of the Mercedes-Benz franchisor, with Justice Beach commenting that the Code may need modification for the provisions to act as intended.
- The review will consider the impact of this decision on the sector.

2023 - 2024 Supplementary Budget Estimates

SB23-000288

CYBER WARDENS PROGRAM

Headline Statement

- The Government is supporting small businesses to build their resilience to cyber security threats through the Cyber Wardens Program.

Key Points

- In the 2023-24 Budget, the Treasury received funding of \$23.4 million over three years for a cyber wardens program to support small businesses to build in-house capability to protect against cyber threats.
- Implementation of the program is occurring through a grant of \$22.995 million, with \$0.435 million available to the Treasury to manage delivery of the program through the Business Grants Hub (BGH).
- The Government specified that the Council of Small Business Organisations of Australia (COSBOA) would deliver the program.
- COSBOA conceived the Cyber Wardens initiative in 2022 and, in 2023, piloted it with partners 89 Degrees East, Telstra and the Commonwealth Bank.
 - On 27 July 2023, COSBOA held a “Beta Testing Event” in Melbourne to trial the training and get feedback from small businesses.
 - On 1 August 2023, COSBOA hosted their first regional Cyber Wardens training event in Wagga Wagga.
- Treasury has been working through the normal grants administration processes necessary for COSBOA to receive the grant.
- Treasury anticipates that the Cyber Wardens program will be open to all small businesses in late 2023/early 2024.

Policy Commitments

- On 9 May 2023, the Minister for Small Business, the Hon Julie Collins MP, included the program in the list of measures that the 2023-24 Budget delivered for small businesses.

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Background

- The purpose of the Cyber Wardens Program is to build the capabilities of small businesses to protect themselves from cyber security threats, by training in-house 'cyber wardens' to manage risks that the business may face.
- COSBOA has successfully applied for the grant and will receive funding to deliver the program to small businesses over three years to 30 June 2026.
- The training is designed specifically for non-technical small business employees, with delivery largely online and at no cost to participants.
- The training will focus on building a cyber-safe mindset and cultural capabilities alongside targeted technical skills. The program will support more than 15,000 small businesses to train more than 50,000 cyber wardens.
- While the core of the program is the training that small businesses will receive, the program will also support research on small business cyber security capability, and national awareness and education campaigns.

The grant

- To implement this decision, Treasury worked with BGH to develop guidelines for an Ad Hoc grant opportunity in accordance with the Commonwealth Grants Rules and Guidelines.
- Treasury approved the guidelines in July and, in August, BGH invited COSBOA to apply for the \$22.995 million grant.
- As per the guidelines, BGH made the final decision on whether to award the grant to COSBOA, under delegation from the Secretary of the Treasury.
- BGH is currently in the process of negotiating the funding agreement with COSBOA. Once finalised, BGH will manage the grant agreement for the duration of the grant, on Treasury's behalf.
- Information about the grant will be on GrantConnect within 21 days of the signing of the grant agreement.

Legislative authority

- The legislative authority for this spending comes from the Financial Framework (Supplementary Powers) Amendment (Treasury Measures No. 1) Regulations 2023, with registration on the Federal Register of Legislation on 23 August 2023. It took effect the following day.

Budget Estimates

- At the Budget Estimates hearings in May, Treasury officials received questions about the Cyber Wardens Program, chiefly in relation to:
 - how the announcement of COSBOA to deliver the program occurred without a competitive process; and

- how COSBOA’s selection of delivery partners (89 Degrees East, Telstra, Commonwealth Bank) occurred.
- The Minister responded by saying that the Government made the decision that COSBOA would deliver the Cyber Wardens Program.

Questions on Notice

- Senator Bragg asked the Minister to take the following as a question on notice: “whether all the appropriate risk management and conflict of interest arrangements are in place?” (SQ23-000321 refers). The answer was sent to the Committee on 17 October 2023:
 - The Cyber Wardens program will be delivered in line with the Commonwealth Grant Rules and Guidelines, which includes requirements around risk management and probity, including conflicts of interest.

House of Representatives Question Time

- On 1 June, the Prime Minister received a question in Question Time about the decision to “award funding” to COSBOA for the Cyber Wardens Program, citing links between 89 Degrees East and the Government. The Prime Minister responded “The grant that the member referred to was a grant to COSBOA, and it's a matter for them which contractors they engage to administer the program”.

Freedom of Information Request

- Treasury received a Freedom of Information request seeking access to briefing documents from October 2022 to May 2023 relating to the Cyber Wardens Program that also reference 89 Degrees East. Treasury released one document on Treasury’s website in August regarding an unrelated program administered by the Treasury.

Timeline

2023	
Late 2023/early 2024	Program expected to open to all small businesses
3 October	BGH approves the award of the grant to COSBOA
24 August	Legislative authority for the spending takes effect
22 August	COSBOA invited to submit an application for the grant
9 May	The Budget announces funding for the Cyber Wardens Program to COSBOA