Modernising Australian co-operatives regulation

Discussion Paper

August 2023

BCCM | THIS IS SOCIAL BUSINESS

Business Council of Co-operatives and Mutuals

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Traditional acknowledgement

The Business Council of Co-operatives and Mutuals (BCCM) recognises the Traditional Owners of the land on which we work and meet. We wish to pay our respects to First Nations peoples and their elders, past and present. We recognise that the values of Indigenous cultures and co-operative values are deeply connected through the business model of community owned, people centred enterprise that cares for community and environment.

Statement of Co-operative Identity

A co-operative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise.

Co-operative values

Co-operatives are based on the values of **self-help**, **self-responsibility**, **democracy**, **equality**, **equity**, and **solidarity**. In the tradition of their founders, co-operative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

Co-operative Principles

The co-operative principles are guidelines by which co-operatives put their values into practice.

1. Voluntary and Open Membership

2. Democratic Member Control

3. Member Economic Participation

4. Autonomy and Independence

5. Education, Training, and Information

6. Cooperation among Cooperatives

7. Concern for Community[1]

[1] Cooperative identity, values & principles | ICA

1. Introduction

The Co-operatives National Law was passed in 2012 in New South Wales as the first step in the project of national harmonisation of co-operatives legislation. By 2020 all jurisdictions had adopted a nationally consistent legislative framework.

The Co-operatives National Law comprises a model law passed in New South Wales along with National Regulations. Each State and Territory adopted the Co-operatives National Law and National Regulations, and then also passed local regulations that maintained local administration of the new law. Western Australia adopted the national law by passing separate consistent legislation.

The major impacts of the new harmonised law are:

- co-operatives now have a form of national registration, thereby eliminating the requirement for multiple registrations where the co-operative wanted to carry on business in more than one state or territory;
- they have power to issue a unique form of security (Co-operative Capital Units) without compromising the principles of member control and ownership; and
- fundraising is no longer subject to oversight by the Australian Securities and Investments Commission and the associated regulatory costs of that oversight.

Despite these positive impacts, the BCCM believes legislative harmonisation achieved under the Co-operatives National Law is hampered by the fragmentation of regulatory administration across eight separate state-based bodies. Further, there has been no review of the impact of the Co-operatives National Law to determine whether it represents best practice in a modern business environment.

At a minimum it should be no more costly or onerous to form and operate a co-op than other business models. The BCCM Policy Blueprint identifies a *Single National Regulator for Co-operatives* as a broad policy reform that could achieve this goal.[2]

We are seeking your views on whether the co-operatives legislation is fit for purpose and what would provide the best practice for the administration of laws regulating Australian co-operatives.

We invite all co-ops to provide their feedback on the Discussion Paper by 17 November.

Yours in co-operation,

Melina Morrison
CEO

[2] See BCCM Policy Blueprint

2. Background: co-operatives legislation and regulation in Australia

Summary

- Since 2020, Australian co-ops have operated under harmonised legislation, the Co-operatives National Law (CNL).
- This has made it much easier for co-ops to trade nationally and provided more flexibility in how co-ops may raise capital, including using Co-operative Capital Units.
- The underlying national agreement for the CNL, the Australian Uniform Co-operative Laws Agreement, also commits states and territories to work towards uniform administration of CNL.

The Co-operatives National Law (CNL, including the consistent *Co-operatives Act 2009* in Western Australia[3]) provides the basic legislative framework for registration and regulation of co-operatives in Australia.[4] The CNL is supported by the Co-operatives National Regulations and local regulations in each jurisdiction.

The project of national legislative harmonisation was completed in 2020 when the last state, Queensland, adopted CNL. A number of longstanding disadvantages of registering under co-operatives legislation were removed as a result. Now, under a true national legislative framework, registered co-operatives can easily engage in:

- National trading: Co-operatives no longer need additional corporate registrations (such as a foreign co-operative registration or ARBN) to operate nationally.
- Fundraising:
    - All co-operatives now have access to Co-operative Capital Units, which provide a means of raising funds from non-member while preserving member democratic control.
    - Co-operatives no longer need to comply with or seek approvals from multiple regulators for capital raising. The time, cost and complexity of offering shares, debentures or Co-operative Capital Units has significantly reduced.

Alongside these benefits, Co-operatives National Law also:

- Is informed generally by the international co-operative principles.
- Aligns directors' duties with those for company directors but allows co-op directors to make business judgements informed by co-operative principles.
- Allows a registered co-op to use the word 'co-op' and equivalents in legal and business names.

[3] All references to the Co-operatives National Law include the Co-operative Act 2009 WA in this discussion paper.

[4] Noting that financial co-operatives and mutuals (such as building societies, credit unions, mutual banks, mutual insurers, mutual health insurers, friendly societies and mutual superannuation funds) generally need to register as companies. The introduction of a definition of a mutual into company law in Australia for the first time in 2019 is therefore an important parallel development. See s51M *Corporations Act 2001*.

- Has strong democratic safeguards for members in governance and capital structure.[5]

Harmonisation of co-operatives legislation under the Co-operatives National Law is underpinned by an agreement between states and territories, the Australian Uniform Co-operative Laws Agreement (AUCLA).[6]

Each state and territory is required to provide both registry and regulatory resources for the co-operatives registered in its jurisdiction under Co-operatives National Law. Generally, state and territory co-operative regulators are located in the consumer affairs department.

AUCLA acknowledges that one of the objectives of states and territories in implementing the agreement is the administration of co-operatives legislation on a 'uniform basis'.

In the following two sections, we outline issues with the Co-operatives National Law legislative framework and how states and territory regulators administer it in practice.

[5] A more detailed overview of these points can be found in Ann Apps, National Report - Australia (ICA-EU partnership – Legal Framework Analysis).
[6] See Australian Uniform Co-operative Laws Agreement

3. The legislative framework for co-ops: is it fit for purpose?

Summary

- Co-operatives legislation is slow to change
- COVID has led to changes to insolvency law and for online processes for companies but not for co-ops
- Co-ops are not included in the Modernising Business Registers Program, including the Director Identification Number scheme.
- International trends in co-op law are to provide co-ops with legislative means to protect their legacy assets.

The BCCM believes the following are issues with the Co-operatives National Law legislative framework. Co-operatives may wish to highlight other issues not outlined here.

Slow to change

The development of the Co-operatives National Law required extensive negotiation between states and consultation with co-operatives. The process leading up to the passage of Co-operatives National Law in 2012 took eight years. It then took a further eight years before it was adopted by all jurisdictions, in 2020.

Making changes to the Co-operatives National Law requires the agreement of two-thirds of the states and territories. That is, at least 6 states or territories must agree to a change.

Even since 2020, there have been many important developments in the business operating environment due to COVID that may not be reflected adequately in the Co-operatives National Law.

> **QUESTION:** Do you think the system for legislative change is responsive to the evolving needs of the co-operative movement?

COVID impacts

During the COVID pandemic, online meetings and processes became very important for all corporations, including co-operatives.

Following the immediate crisis, company law has been amended to make technology neutral processes an express and permanent option. The underlying Co-operatives National Law framework[7] has not been reviewed to ensure a similar technology neutral environment for co-ops. Currently one state has determined co-ops cannot use online voting tools for general meetings.

[7] Other relevant legislation such as the Electronic Transactions legislation in each state and territory should also be considered.

Permanent changes were also made to insolvency law (in the Corporations Act) to give businesses more flexibility to restructure before having to resort to administration, including through a Small Business Restructuring process. The insolvency provisions of the Corporations Act are applied by Co-operatives National Law to co-operatives, however, the newer processes were inserted in new Parts of the Corporations Act and therefore are not applied to co-operatives.

> **QUESTION:** Should co-operatives legislation be technology neutral?

> **QUESTION:** Should recent changes to insolvency law be applied to co-operatives?

Modernising Business Registers Program

In 2018, the Commonwealth Government began a program to streamline the administration of business records, called the Modernising Business Registers Program. The purpose was to combine the Australian Business Register (ABNs are generated through the Australian Business Register), the Business Names register, the ASIC register of companies and the registers for Personal Property Securities, with potential for expansion to the ATO and other registers. Simplifying multiple registers would mean that a company wanting to change its details could do it all in one place, and a bank or other person wanting to find out public information about a company could search for it in one place.

Under this Program a system of Director Identification Numbers (DINs) was also introduced. DINs are intended to counter-act fraudulent director identities and illegal 'phoenixing' (directors liquidating a company to avoid debts to creditors, then forming a new company to continue the same business).

Co-operatives are excluded from these developments.

Data about the registration and status of co-operatives is contained in eight different public registers and will remain separate from the data contained in the Australian Business Register.

A person who stands for election as a director of a co-operative is not required to have a DIN.[8] That person may present false information about their identity, and will not be searchable under the register of directors with a DIN.

> **QUESTION:** Should the public register information for co-operatives be located on a single register? If you think it should be in a single register, should it be the same register as all other business models, or should it be a separate national co-operatives register?

> **QUESTION:** Should co-operative directors be required to obtain a DIN? Alternatively, should member directors excused from the DIN requirements, but independent directors required to have a DIN?

Co-operative formation and disclosure

To form a new co-operative in Australia, the proposers must draft 2 documents:

- A set of rules compliant with the law

[8] Noting an exception for directors of a co-operative that has an ARBN. In addition, co-op directors may be required to hold a DIN in other capacities, such as if they run their own business and it is structured as a company.

- A disclosure statement (not required for most non-distributing co-ops)

To assist with drafting the rules there are some model rules set out in the Co-operatives National Regulations.

The model rules were drafted in 2014, so they are now almost 10 years old and they do not allow for online meetings. They are relatively simple and make no allowance for co-operatives operating in different sectors or in complex regulatory environments, such as health, aged care or renewable energy. Even if the proposers of the new co-operative follow the model rules, they are still subject to an approval process by the Registrar, who is allowed 28 days to make a decision.

BCCM research with the University of Western Australia for the annual National Mutual Economy Report suggests that approximately 30-40 co-operatives are forming each year and roughly the same number of co-operatives are exiting each year. This is much less than comparable economies like Canada where, with a population of 38 million, approximately 200 co-ops are formed each year.[9]

> **QUESTION:** Should the Model Rules be updated? Or should they be discarded and the rules simply be required to comply with a list of topics?

> **QUESTION:** Should the time permitted for the Registrar to approve rules be reduced?

A formation disclosure statement is required for all distributing co-operatives and may be required for a non-distributing co-operative.

The legislation provides basic guidance as to the contents of the disclosure statement, however, some regulators provide a template for the drafting of the disclosure statement. Both the legislative guidance and the template guidance for a disclosure statement are focused on providing disclosure similar to that required when a company is offering securities to the public. However, the BCCM believes the requirement for a disclosure statement is not based on an appropriate risk analysis.

For example, a new co-operative of only five members who are required to buy shares to the value of $100 each is subject to the same disclosure requirements as a new co-operative with possibly 1000 members who are required to buy shares to the value of $50,000 each.

Companies have an exemption from disclosure where they raise less than $2 million from less than 20 investors in a year.[10] This applies to certain non-member offers by co-ops also.

Co-operatives legislation in the United Kingdom does not require the drafting of a disclosure statement as part of the formation process. A disclosure statement or offer document is only required if the co-operative makes a public offering of shares.

> **QUESTION:** Should all distributing co-operatives be required to prepare a disclosure statement as part of the formation process?

[9] See Co-operatives and Mutuals Canada, Economic Impact of the Co-operative and Mutual Sector
[10] s708 Corporations Act 2001

QUESTION: Should the requirement for a disclosure statement be dependent on risk associated with the purchase of shares? If so, what dollar amount do you consider to represent a risk that would require disclosure by a co-operative?

Distributing co-operatives have to maintain a current disclosure statement.[11] There is a limited class exemption from this requirement in New South Wales.[12]

The requirement to update a co-operative's disclosure statement at least annually (given annual financial statements) is similar to the requirement for listed ASX companies to provide continuous disclosure to the stock market. However, co-operative shares cannot be traded on the stock market.

The requirement for updating the disclosure statement for a distributing co-operative derives from the fact that in practice they can accept new members who buy shares at any time.

QUESTION: Is it necessary to require all distributing co-operatives to update their disclosure statement at least annually?

QUESTION: Should the requirement be altered to reflect the risk of loss to new persons who seek membership so that the disclosure necessary to those persons includes current financial information and any other significant matters the contribute to risk for the new member?

Protection of legacy assets

A new legislative provision to allow co-operatives to opt to make their surplus assets permanently non-distributable has been introduced in the United Kingdom in response to increasing attempts by private equity firms to raid co-operatives.[13] When a co-op opts in, members are still entitled to receive the nominal value of their investments in the co-operative but no share of any surplus assets beyond this. While the provision does not prohibit demutualisation, it removes one of the common drivers of demutualisation, which is the temptation for a current group of members to trade the long-term benefits and rights of membership for access to surplus assets.

Similar provisions are common in co-operative legislation in mainland Europe and the BCCM Policy Blueprint identifies *Protection of legacy assets* as a priority legislative reform for mutuals and co-ops.

The Co-operatives National Law provides that non-distributing co-operatives shall protect surplus assets during dissolution by requiring them to donate them to another organisation with a similar purpose as part of their rules. However, this can be overcome through conversion to a distributing co-op structure.

There is no equivalent legislative provision for distributing co-operatives, although the rules of a distributing co-operative may make provision to protect legacy assets. This is subject to the rules being later changed again by members.

[11] S68 Co-operatives National Law

[12] In New South Wales, ongoing updates are not required where the shareholding qualification for membership is less than $200. See Fair Trading NSW, Class exemption on disclosure.

[13] See Co-operatives, Mutuals and Friendly Societies Act 2023 - Parliamentary Bills - UK Parliament

For example: Community Co-op is a distributing co-op that operates retail stores. Its members are local consumers who benefit from access to goods, rebates on purchases and modest dividends on shares. Community Co-op has operated sustainably for many years and has built up significant reserves. On a wind up, its members are entitled to the nominal value of their share capital (with most members holding between the minimum $50 and $1000 in shares) and any surplus assets after debts are met. Based on its most recent balance sheet, this would mean an average additional distribution per member of $2,500 on a wind up. Should Community Co-op members be able to decide to make the surplus assets permanently non-distributable to members.

> **QUESTION:** Should the law be amended to allow for permanent protection of legacy assets by co-operatives?

4. Administration of Co-operatives National Law: has this worked well?

Summary

- Eight state and territory regulators have different numbers of co-ops to regulate but the same basic fixed costs to regulate to a reasonable standard.
- In practice, co-ops across different jurisdictions have widely varied experiences interacting with regulators, such as when seeking approvals for rule changes or disclosure documentation.
- During COVID, regulators didn't work together to provide timely and uniform relief to co-ops across Australia.

The BCCM believes the following are issues with how the Co-operatives National Law is administered by state and territory regulators currently, noting the goal is for this administration to be on a uniform basis. Co-operatives may wish to highlight other issues not outlined here.

Cost to government of eight separate regulators

The role of regulating co-operatives in Australia is still state based. Arguably there are fixed costs of administering the legislation borne by each jurisdiction. In order to ensure that administration of the Co-operatives National Law is uniform in accordance with the objectives of the Australian Uniform Co-operative Laws Agreement, it would be reasonable to expect that those staff administering it have the requisite expertise and experience in the field.

Registration numbers for co-operatives according to each state and territory in June 2022 are shown in the table below:

Jurisdiction	**Number of registered co-ops**[14]
Australian Capital Territory	14
New South Wales	621
Northern Territory	5
Queensland	140

South Australia	49
Tasmania	26
Victoria	506
Western Australia	69

Each regulator must have staff able to perform the administrative tasks specified under the Co-operatives National Law. Accordingly the Northern Territory, with only five co-operatives must have staff skilled in approving rules for registration, approving a disclosure statement offering membership and shares, ensuring that co-ops have conducted an AGM and lodged appropriate annual returns and that distributing co-operatives have lodged a current disclosure statement.

It is likely that the level of knowledge regarding the legislation within each regulatory agency will be different. Possibly staff in New South Wales and Victoria will have more knowledge than jurisdictions with only a handful of registered co-operatives, merely because of the higher number of registered co-operatives in those jurisdictions.

For jurisdictions with only a few registered co-operatives, it is also necessary to install and maintain systems to record the actions of co-operatives as required by the legislation. For example, each regulator must maintain a public register of co-operatives that is capable of providing data for those seeking to search the register. The public register will contain details of directors, annual information statements and issue notices for the payment of any annual fees.

> **QUESTION:** Do you think it is reasonable to expect the same level of expertise and data collection from each regulatory agency? Should regulators seek to combine registry functions such as participating in a single public register for co-operatives?

Costs to the co-op movement of eight separate regulators

The local regulations under the Co-operatives National Law not only adapt the law to local conditions by specifying what officer holds the role of the Registrar in that state or territory as well the various courts that have jurisdiction in the event of a breach of the law, it also determines what fees are to be paid for various functions.

There are significant differences between jurisdictions for the carrying out of search requests, and different fees for other key functions such as the cost of approving new rules and disclosure statements.[15]

> **QUESTION:** Do you think there should be such differences in the fees charged for the same functions between each state and territory? Do you think that functions such as a common public

[15] To take one example, the fee for an application to approve proposed rules of a co-operative is currently $198 in WA and $87 in NSW.

register or centralising the approval functions for registering co-operatives would help achieve more uniform administration of the legislation?

Currently, there are no nationally uniform procedures adopted by regulators for common processes such as search requests, lodgement of update disclosure statements or approval of disclosure documentation. For example, the lodgement of search requests is different for each regulator with the result that in some jurisdictions the search results may be returned in a few days, while others will take some weeks because of outdated paper-based record keeping systems. By way of comparison, any person can do a free search of the ASIC register online. Documents such as company constitutions are available online for a standardised fee.

> **QUESTION:** Do you think that different procedures for searches or obtaining approval for documents is appropriate?

Rule changes are slow and unpredictable

Co-operatives are able to change their rules at a general meeting, however, to change their active membership rule, they must get prior approval from the Registrar regardless of how minor the change is. Registrars may take up to 28 days to give approval. The time actually taken in practice varies significantly depending on which state or territory the co-operative is registered.

There is evidence that some rules have been approved in some jurisdictions, but identical rules are not approved in other jurisdictions.

> **QUESTION:** Should the time permitted for the Registrar to approve a change to a rule be reduced?

> **QUESTION:** Should a co-operative be able to expect that if a specific rule is approved in one jurisdiction it will be approved in any other jurisdiction?

Fundraising

As noted earlier in the Discussion Paper, a major impact of the new Co-operatives National Law was the introduction of Co-operative Capital Units and removal of ASIC oversight from co-op fundraising offers.

However, since the introduction of these changes there has been a limited number of public offers of Co-operative Capital Units.

A review of the information provided by each of the eight regulators on their respective websites shows that there is no information or guidance about Co-operative Capital Units and the procedures or disclosures required for offering them.

Lack of regulatory guidance or information means co-operatives must always seek external advice on these matters from professional advisers. Advisers may charge higher fees to learn about these instruments and try to determine what is required by the regulator.

Companies that seek to raise capital through offering securities are well served with ASIC regulatory guidance on disclosure and also on the process and timeline for lodgement of disclosure statements prior to any offer being live.

By failing to publish any guidance material on fundraising, regulators have severely lessened the benefits to the co-operative movement of one of the key reforms under the Co-operatives National Law.

QUESTION: Should regulators publish material about fundraising by offering securities and provide guidance material for co-operatives to prepare offer and disclosure documents? Should there be a centralised process for the lodgement and publication of offer documents for co-operative securities to ensure uniformity?

COVID impacts

As noted earlier in the Discussion Paper, COVID has led to permanent changes to company law. COVID also demonstrated the need for regulators to be flexible and responsive when the operating conditions changed for regulated entities, principally by providing temporary regulatory relief.

During COVID, BCCM advocated to co-op regulators to provide regulatory relief to co-operatives in relation to the holding of AGMs and to apply the temporary insolvency law changes to co-operatives. The response was mixed, varying from positive responses in some states, slow responses in some states, to no action in others. There was no co-ordinated national response, which could have been a rational way for states and territories to share resources and knowledge in order to provide one regulatory relief solution for all co-ops during COVID. Instead, some co-ops in poorly resourced jurisdictions received no support from their regulators.

QUESTION: Where the regulator has power to make adjustments to regulatory impact and the power to produce guidance for co-operatives do you think the regulators should act quickly and uniformly in response to these problems?

QUESTION: Should the power to make regulatory adjustments and issue guidance be allocated to a single regulator?

5. Regulatory modernisation options

Summary

- BCCM has identified two reform options to address the issues outlined in the Discussion Paper
- Option 1 is states and territories collaborating and cost sharing.
- Option 2 is a single national regulator.

The BCCM has identified two options for regulatory modernisation that could respond to the issues identified in the previous two sections.

OPTION 1 – Greater uniformity across States and Territories with possible shared functions such as a national public register

States and territories would commit to act in accordance with their CNL responsibilities on a cost sharing basis. This could include:

a. Establishing a single national public register that had the same features of the proposed national business register established by the Modernising Business Registers program and administered by the Commonwealth Registrar.
b. Reviewing (and where necessary amending) the CNL and Co-operative National Regulations regularly.
c. Preparing uniform regulatory guidance material.
d. Establishing and monitoring a publicly accessible website for the lodgement of disclosure documents during the public exposure period required for some offers of securities by co-operatives.
e. Administratively delegating functions to a single entity.

Under this option, states and territories would work more closely together to keep the regulatory framework up-to-date and to administer it uniformly. By sharing functions such as a national register or delegating some processes to one entity, states and territories may be able to modernise and streamline the regulatory environment for co-operatives much more effectively than if there is no sharing of costs or functions. Regulatory collaboration may be more efficient both for governments and for co-ops.

The CNL permits co-op regulators to delegate any of their functions (s598 CNL). Discrete functions could be delegated to a single entity: public register functions, approval of formation documents, approval and public exposure hosting of public offers of securities. Delegating functions would still require oversight by regulators and there may be some functions that are not able to be delegated such as reviewing the legislative framework, initiating amendments and developing policy positions for action.

A challenge for this approach is the different number of co-ops in each jurisdiction. Some jurisdictions with a small number of co-operatives and limited regulatory resources may therefore prefer to simply relinquish regulatory control.

QUESTION: Do you see any benefits or advantages with reform option 1?

OPTION 2 – Single national regulator

Option 2 would achieve similar benefits to Option 1 and would also permanently address the underlying state and territory resourcing and co-ordination challenges that make modernisation difficult and slow under current arrangements.

The power to make laws with respect to companies was referred to the Commonwealth in 2000 after protracted efforts for co-operative legislative schemes failed in part over cross border proceedings and lack of federal oversight of security offers by companies. The referral was achieved under the framework established in the Corporations Agreement that is subject to five yearly reviews.

Co-operatives and incorporated associations were excluded from the referral as they had limited ability to raise funds from the public and, historically, they were used by State governments in regional development policies. The facts have now changed and it is appropriate to consider how co-operatives are part of the same national economic and financial system as companies, albeit with a distinct corporate identity and purpose.

A referral of powers can only occur when governments in each jurisdiction are willing to examine and identify the costs and benefits of a referral.

The Commonwealth has experience in corporate regulation, particularly in respect of disclosure and consumer protection for investors. The main risk of Option 2 is that the unique principles and purpose of co-operatives would not be understood by the Commonwealth. Referring the power to regulate co-operatives to the Commonwealth would require acknowledgement of the unique identity and purpose of co-operatives and a commitment to providing a dedicated, expert regulatory body for co-ops.

The BCCM believes option 2 provides the best long-term solution for co-operatives to operate under a modern and truly national regulatory environment that is conducive to growth of existing co-ops and a greater rate of formation of new co-ops. The BCCM also believes that, while potential amendments to legislation are identified at high level in this Discussion Paper, the core of the Co-operatives National Law framework is sound and should be preserved in any referral of powers.

QUESTION: Do you see any benefits or advantages with reform option 2?

6. How to provide feedback and next steps

BCCM seeks feedback **by 17 November 2023.** Responses to specific consultation questions and general feedback are both encouraged.

Feedback can be provided via:

- Survey: https://www.surveymonkey.com/r/YCG7LPF
- Email: anthony.taylor@bccm.coop

BCCM will prepare a findings report early in 2024.

7. Summary of consultation questions

1. Do you think the system for legislative change is responsive to the evolving needs of the co-operative movement?
2. Should co-operatives legislation be technology neutral?
3. Should recent changes to insolvency law be applied to co-operatives?
4. Should the public register information for co-operatives be located on a single register? If you think it should be in a single register, should it be the same register as all other business models, or should it be a separate national co-operatives register?
5. Should co-operative directors be required to obtain a DIN? Alternatively, should member directors excused from the DIN requirements, but independent directors required to have a DIN?
6. Should the Model Rules be updated? Or should they be discarded and the rules simply be required to comply with a list of topics?
7. Should the time permitted for the Registrar to approve rules be reduced?
8. Is it necessary to require all distributing co-operatives to update their disclosure statement at least annually?
9. Should the requirement be altered to reflect the risk of loss to new persons who seek membership so that the disclosure necessary to those persons includes current financial information and any other significant matters the contribute to risk for the new member?
10. Should all distributing co-operatives be required to prepare a disclosure statement as part of the formation process?
11. Should the requirement for a disclosure statement be dependent on risk associated with the purchase of shares? If so, what dollar amount do you consider to represent a risk that would require disclosure by a co-operative?
12. Should the law be amended to allow for permanent protection of legacy assets by co-operatives?
13. Do you think it is reasonable to expect the same level of expertise and data collection from each regulatory agency? Should regulators seek to combine registry functions such as participating in a single public register for co-operatives?
14. Do you think there should be such differences in the fees charged for the same functions between each state and territory? Do you think that functions such as a common public register or centralising the approval functions for registering co-operatives would help achieve more uniform administration of the legislation?
15. Should the time permitted for the Registrar to approve a change to a rule be reduced?

16. Should a co-operative be able to expect that if a specific rule is approved in one jurisdiction it will be approved in any other jurisdiction?
17. Should regulators publish material about fundraising by offering securities and provide guidance material for co-operatives to prepare offer and disclosure documents? Should there be a centralised process for the lodgement and publication of offer documents for co-operative securities to ensure uniformity?
18. Where the regulator has power to make adjustments to regulatory impact and the power to produce guidance for co-operatives do you think the regulators should act quickly and uniformly in response to these problems?
19. Should the power to make regulatory adjustments and issue guidance be allocated to a single regulator?
20. Do you see any advantages or disadvantages with reform option 1?
21. Do you see any advantages or disadvantages with reform option 2?

About the BCCM

The BCCM is the national industry peak body for co-operatives and mutuals, working with governments, regulators and policymakers to ensure the Australian economic landscape is fully able to benefit from a competitive co-op and mutual movement.

Through its member co-ops and mutuals, the BCCM represents more than 11 million people and businesses.

The BCCM is a member of the International Co-operative Alliance (ICA) with access to world-wide networks.

Business Council of Co-operatives and Mutuals (BCCM)

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