



AUSTRALASIAN INVESTOR RELATIONS ASSOCIATION



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Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

## Submission to Senate Economics Legislation Committee – Corporations Amendment (Meetings and Documents) Bill 2021

Dear Committee

Thank you for the opportunity to provide this submission to the Senate Economics Legislation Committee (**Committee**) as it prepares its report on the *Corporations Amendment (Meetings and Documents) Bill 2021 (Bill)*.

The Australasian Investor Relations Association (**AIRA**) strongly supports the reforms contained in the Bill. If passed, these reforms will provide immediate and transformational changes to the *Corporations Act 2001* and shepherd Australia's corporate legislation into the 21<sup>st</sup> century.

### About AIRA

AIRA is the peak body representing investor relations practitioners in Australia and New Zealand. Our members include the majority of ASX100 companies and Australia's leading share registries. We exist to provide listed entities with a single voice in the public debate on corporate disclosure and to improve the skills and professionalism of members. Our mission is to advance the awareness of, and best practice in, investor relations in Australasia and to achieve better outcomes for all capital market stakeholders. We drive industry best practice and reform through our engagement with government, financial regulators, and other stakeholders to promote a supportive environment for the sector.

### Support for the Bill

The Bill represents a significant milestone in the evolution of Australia's corporate law and AIRA urges its swift passage by the Parliament.



The Bill advances Australia's corporate law into the digital age. It provides a clear and comprehensive framework for companies to use digital technology to execute and send documents to their members and shareholders and hold meetings in a hybrid and virtual format. The Bill's adoption of a technology neutral approach will be core to its long-term success and will ensure innovation in investor engagement can continue to evolve to meet the behaviours and demands of shareholders.

AIRA has long advocated for permanent changes to the *Corporations Act* to allow companies to leverage technology as part of our broader shift to the digital economy. Our position is the culmination of extensive engagement with our members and the Australian Government. Specifically, the proposed reforms outlined in the Bill have been considered in detail since the COVID-19 pandemic began. This includes consultation on:

- Exposure draft legislation conducted by the Government in 2020;
- The operation of the temporary measures implemented throughout the pandemic, that the Bill would make permanent;
- The *Treasury Laws Amendment (2021 Measures No. 1) Bill 2021* by the Senate Economics Legislation Committee and Senate Economics References Committee; and
- Exposure draft of the *Treasury Laws Amendment (Measures for Consultation) Bill 2021: Use of technology for meetings and related amendments* conducted by Treasury earlier this year.

The reforms have been stress tested throughout the pandemic and provides a solid evidence base for their success. It has demonstrated that technology neutrality and the use of electronic methods increases accessibility and engagement. It also demonstrates that companies should be given the flexibility and the freedom to choose which meeting format – or combination of formats – best suits its shareholders without having to change its constitution. There are more than 2.6 million registered companies who must comply with the Corporations Act, whose shareholder and member requirements vary drastically to those listed on the ASX300 index. Company meeting and AGM practices, including the adoption of hybrid and virtual meetings, have evolved enormously since the beginning of COVID-19 and the Bill is an opportunity to build on that evolving practice through the adoption best practice guidelines, which AIRA, the Governance Institute of Australia, Australian Institute of Company Directors and the Law Council of Australia have developed.

Both companies and investors have benefitted from the added flexibility afforded to them since temporary legislation was enacted. Feedback from AIRA members has overwhelmingly highlighted that choice and accountability to tailor meeting formats to an increasingly diverse investor community has increased attendance and investor engagement. The technology now available for running virtual meetings and to be able to vote contemporaneously online has improved significantly and has led to successful company meetings over the past two years. Moreover, members and shareholders have a range of protections at their disposal to communicate their preferences to company boards and ensure they are held accountable for their performance and actions. These are further supported by the Bill's requirement that members and shareholders be given reasonable opportunity to participate in meetings, no matter what format has been selected.

Overall, AIRA fully supports the Bill. It will provide our members with greater choice, efficiency and certainty, reduce their regulatory burden, and align the Corporations Act with expectations of shareholders, industry and global markets.

## **Recommended amendments**

AIRA is highly supportive of the Bill, however, there are a small number of important changes to the provisions that will ensure the legislation is fit-for-purpose for all companies and flexible enough to adapt to the digital preferences increasingly adopted by companies and their members and shareholders.

### ***Remove requirement for constitutional amendment to permit virtual meetings***

AIRA supports the provisions that make permanent changes to give companies certainty and greater flexibility to use technology to hold meetings in hybrid and virtual formats. However, 249R(c) should be amended to remove the requirement that a company must permit virtual meetings by its constitution. Companies should have the choice to determine what the most appropriate format is for their company meeting and AGM. This determination should be based on the company's specific business, investors, issues and resolutions. In essence, the Bill must function for all types of companies, whose boards are accountable to members and shareholders to choose the most appropriate format for the company's interests. No format should be prescribed or excluded.

While a hybrid or virtual meeting may not always be the most appropriate option for a company or member, the benefits are clear. It enables companies to engage a wider member base and allows for real time engagement with shareholders despite geographic distance. It also empowers shareholders how they wish to engage with a company, and reduces regulatory, financial and environmental costs, which benefits the broader community.

Australian companies and shareholders have now completed four AGM seasons over two years. Virtual meetings have, in fact, improved shareholder engagement compared to purely in-person meetings. Their success has been documented in Link Group's [2021 AGM Snapshot](#):

- More than 1,300 questions were received virtually highlighted an increase in engagement and the ability to participate in meetings irrespective of the attendee's location. Further, the number of clients offering questions increased in all indices.
- Westpac's AGM in December 2020 saw the highest attendance for a virtual meeting in Australia in 2020 with 1,264 participating in the meeting via the online AGM platform and teleconference line.
- Online votes exceeded paper votes for the first time with the S&P/ASX 100 recording a 29.08% increase in online votes.

We support provisions 249S(1) and 252Q(1) which provide sensible requirements that ensure members and shareholders as a whole must be given a reasonable opportunity to participate. It is

vital that shareholder rights are protected and enforced as new technologies are used to conduct company meetings.

We support the amendment that provides ASIC with powers to allow virtual meetings (that is, without the need to change their constitution) during certain periods in which shareholders cannot meet in person, or that precludes the adoption of either hybrid or in-person format.

### ***Sending documents electronically should be the default method of engagement***

AIRA supports the flexibility afforded by the Bill allowing companies to give meetings-related documents to a person electronically or in physical form. However, Australia's corporations law should be modernised so that the default setting for all company communication is in electronic form.

The Bill should be amended to require members and shareholders to proactively opt-in to receive physical copies of documents outlined in the Bill, as is currently the case with receiving physical copies of annual reports. The default should apply to all members and shareholders and in the circumstance where the company has a member's email address or not.

AIRA supports the position that all shareholders, considering their specific circumstances and needs, can choose to receive a hard copy. However, making digital communication for all documents the default setting will accelerate behaviour change in line with the Government's *'Modernising Business Communications'* reforms. This will reduce costs for companies and increase environmental benefits for the broader community.

### ***Standard notice on a company website***

AIRA supports the provisions outlined in s110E providing members and shareholders with the power to elect to receive documents in physical form, electronically or not at all. The requirement that companies comply with an election to receive a hard copy document within a period of 30 days is reasonable. The requirement that companies take reasonable steps to send a document in a manner that complies with their request within 3 business days should be changed to 7 business days to account for a range of administrative constraints, including print and postage.

However, as AIRA has previously argued, where an email address already exists for a shareholder, there should be no obligation on companies to proactively communicate with that shareholder of the option to receive documents in hard copy. As such, the s110K should be amended to allow companies to comply with their notice obligations by placing a standard notice on their company website that is readily available alerting members and shareholders of the option to receive documents electronically, in hard copy or not at all. The obligation to provide this notice every time a document is sent to the member is costly and unnecessary given current adoption rates of digital technology and the Government's own digital reform agenda.

## Conclusion

Thank you for the opportunity to provide these comments to the Committee and we hope our submission assists with your consultation.

Should you wish to discuss AIRA's comments further, or require additional information, please do not hesitate to contact me at [REDACTED]

Yours sincerely

[REDACTED]

Ian Matheson

**Chief Executive Officer**

**Australasian Investor Relations Association**