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

Email: economics.sen@aph.gov.au

Dear Senators,

Corporations Legislation Amendment (Deregulatory and Other Measures) Bill 2014

The Australian Institute of Company Directors welcomes the opportunity to comment on the Corporations Legislation Amendment (Deregulatory and Other Measures) Bill 2014 (the Bill). This Bill sets out proposed amendments to the '100 member rule', disclosures in the remuneration report and other measures.

The Australian Institute of Company Directors (Company Directors) is the largest member-based director association worldwide, with individual members from a wide range of corporations; publicly-listed companies, private companies, not-for-profit organisations, charities and government and semi-government bodies. As the principal Australian professional body representing a diverse membership of directors, we offer world class education services and provide a broad-based director perspective to current director issues in the policy debate.

We confine our comments on the Bill to the proposed amendments in the Corporations Act which relate to the 100 member rule and the disclosures in the remuneration report.

1. Summary

In summary, Company Directors key comments on the Bill are as follows:

(a) We support the proposed removal of the '100 member' rule in section 249D(1)(b) of the Corporations Act 2001 (C'th) (the Act); and

(b) We support the proposed amendments to the remuneration report.

2. Removal of the 100 member rule

Company Directors has long advocated for the removal of section 249D(1)(b) of the Corporations Act which allows 100 members of a company to requisition an extraordinary general meeting of the company. We therefore support the removal of section 249D(1)(b) of the Act as proposed by the Bill.

The removal of the '100 member rule' would provide a good example of the type of deregulation that would allow business to operate more efficiently, without compromising the fundamental rights of shareholders.

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We note that the removal of the 100 member rule would not in any way diminish the existing right of **100 members** to raise concerns about the company by requesting that:

- a resolution be placed on the agenda for a company's general meeting (section 249N(1)((b) of the Act); and/or
- the company distribute statements to all of its members about a resolution or a matter that may be properly considered at a general meeting (sections 249P(2)(b) of the Act).

It would also not diminish the right of **5% of members** to:

- requisition an extraordinary general meeting (section 249D of the Act);
- place resolutions on the agenda for the company's annual general meeting (section 249N(1)(a) of the Act); or
- request the company to distribute statements to all of its members (sections 249P(2)(a) of the Act).

We consider that these provisions protect the rights of small groups of members to express their concerns. In our view, the need to encourage shareholder participation must be balanced against the need to manage the associated costs to the company and, therefore, the body of shareholders as a whole. The right of 100 members to call an extraordinary general meeting does not represent an appropriate balance. This is particularly the case, when those who have called an extraordinary general meeting do not expect that the resolutions put forward at the extraordinary general meeting will carry.

The cost to the company of being required to call and convene an extraordinary general meeting can by some accounts range from $500,000 to over $1 million, excessive figures when the general meeting is unlikely to achieve any tangible outcome. These figures also do not include the unquantifiable and intangible costs to companies created by these requisitions, including the distraction to board and management and the time taken away from engaging with shareholders that have an economic stake in the company and that have legitimate corporate governance concerns.

We continue to be of the view that it is unreasonable to put corporations and their members to the expense of holding an extraordinary general meeting, especially when the majority of those members are not expected to support the resolutions put forward by the 100 members at the general meeting.

We support the removal of the '100 member rule' proposed by the Bill and congratulate the Government for putting forward a reform that preserves shareholder democracy while at the same time reduces the costs to companies, the wider body of shareholders and Australia's superannuants.

3. Improving disclosure requirements in Remuneration Reports for disclosing entities (section 300A)

Company Directors is supportive of the following proposed amendments to the remuneration report set out in the Bill:

- Listed entities being required to disclose the *number* of options granted to key management personnel that lapsed during the financial year and the financial year in which the lapsed options were granted;

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- Listed entities no longer being required to report the *value* of lapsed options of key management personnel and the percentage of the value of remuneration consisting of options; and
- Unlisted disclosing entities no longer being required to prepare a remuneration report.

We are of the view that these changes will assist in reducing the regulatory burden of unlisted disclosing entities and those entities required to prepare remuneration reports.

If you would like to discuss any aspect of our views, please contact us

Yours sincerely,

Rob Elliott,
General Manager
Policy & Advocacy