



Australian Government
Digital Transformation Agency

dta



Mr Mark Fitt
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Senate Standing Committees on Economics
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Dear Mr Fitt

Thank you for the opportunity to provide a submission to the Inquiry into *Corporations Amendment (Meetings and Documents) Bill 2021 [Provisions]*.

The Digital Transformation Agency (DTA) supports this draft legislation to enable companies and their officers to use technology to execute company documents and sign meetings-related documents.

The DTA's feedback provides an overview of the Australian Government's Digital Identity program¹ and this could support the use of technology to allow for e-signatures and electronic execution of company documents in contexts that have traditionally required physical signatures. Digital Identity could assist companies to meet the requirements to identify a person and capture their intention to sign a document and has strong privacy safeguards which include a design that does not rely on a unique identifier.²

The Australian Government's Digital Identity program

Digital Identity provides a simple, accessible and secure way for Australians to verify their identity online.

Creating a standard Digital Identity is similar to a 100-point identification check and provides flexibility for different services that require stronger levels of identity assurance. Digital Identity is entirely voluntary. If a person can't or doesn't want to use Digital Identity, they can access services through existing methods such as visiting a shopfront.

¹ digitalidentity.gov.au provides information on the Australian Government's Digital Identity system.

² Use of Digital Identity is voluntary and opt-in, and therefore could only offer one part of a broader solution to identify a person and their intent to sign a document.

Digital Identity does not create a unique identifier, nor does it allow tracking of people's online activities. It provides a means for people to verify their identity online. An individual 'owns' their identity, rather than a unique number 'owned' by Government. Each time a person uses Digital Identity, they are asked to consent before any details are shared with the service they want to access.

A Digital Identity can be re-used across a range of services, saving people time and effort. Analysis undertaken by KPMG in October 2021 on four digital identity case studies (credit and debit card fraud; KYC obligations; new employee onboarding; SME applications for financial products) estimate economy-wide savings of up to \$652 million annually.

Digital Identity is a whole-of-government and whole-of-economy solution. It is a federated system designed to protect users' privacy, while allowing access to the broadest range of services possible. The DTA is working collaboratively across Australian states and territories and the private sector to ensure Digital Identity meets user needs at a national level. A third phase of consultation on the exposure draft of the Trusted Digital Identity Bill³ for expanding Digital Identity to states, territories and the private sector concluded in October 2021, and is planned to be introduced to Parliament in late November 2021.

How Digital Identity could support the reforms

The reforms proposed in the amendment will reduce regulatory barriers to using technology for e-signatures and electronic execution of company documents in contexts that have traditionally required physical signatures. However, if these regulatory barriers to signing online are removed, it is important that people, regulators and Government can still have confidence in the identity and intention of the people entering the transaction.

Specifically, the DTA notes the explanation of technology-neutral signature methods in the explanatory memorandum:

1.18 In establishing the person's identity, the signature method need not be a unique identifier but rather it should identify the person signing the document

Digital Identity could play a role in assuring the identity of company representatives and recording their intention to sign and execute a company document. Digital Identity can provide strong assurance over a person's identity at the point of transaction. The Digital Identity system is also supported by embedded safeguards and protections, which will become stronger under the proposed legislation.

³ <https://www.digitalidentity.gov.au/have-your-say/phase-3>

Any use cases for the Australian Government's Digital Identity system to be used across the private sector, including to sign and execute a company document as discussed below, require the passage of Digital Identity legislation (Trusted Digital Identity Bill).

The use of Digital Identity for people representing businesses

More than 5.3 million Australians are already using their Digital Identity to access over 80 government services. Most of these are business services, for which Digital Identity allows authorised people to assert that they represent a business in a trusted way. Over 1.3 million businesses are currently linked to Digital Identity.

From 1 November 2021, company directors need to verify their identity as part of a new director identification number (Director ID) requirement. Directors will need a myGovID with a Standard or Strong identity strength to apply for their Director ID online⁴.

The Digital Identity system is also connected to accredited Attribute Service Providers that allow people to share verified attributes with services using the system. Currently, one of these attributes is for business authorisations, which are used by connected government services to ensure that people are authorised to act for a business. In future, after the passage of the Trusted Digital Identity Bill, this same attribute could be provided to businesses so that they could be sure that the representatives of parties to a transaction are all properly authorised to act on behalf of each other. This could provide confidence that someone is a company director, company secretary, or have been otherwise delegated authority by the company to enter contracts on its behalf.

The Digital Identity system will also provide people with a choice of Identity Providers. This means that people could choose to keep the identity they use for their business and personal affairs separate. Alternatively, people could conveniently choose to use a single digital identity to access services across their business and private lives.

Reducing fraudulent activity

Identity theft is fuelling a global increase in cybercrime, fraud, serious and organised crime. Identity verification and digital access are common attack points for fraudulent actors, identity thieves and hackers. Identity crime now impacts one in four Australians.⁵

Enhanced security provided by Digital Identity could help to minimise the risk of fraud and identity crime in online signature solutions enabling electronic execution of company documents, in the same way it currently supports the 80 government services currently connected to the system.

⁴ <https://www.abrs.gov.au/director-identification-number/apply-director-identification-number>

⁵ Ibid.

Increasing security

Digital Identity improves the security of transactions for both users and for the services using it by making it much harder for criminals to steal identities. Digital Identity also empowers the user, giving them visibility of their data to ensure it is accurate and will provide them with a history of transactions, including where and when information has been shared, allowing people to check for suspicious activity.

Accredited participants within the Digital Identity system undergo mandatory and comprehensive cyber security assessments. This includes Identity Service Providers, like the government provider myGovID, as well as the exchange and Attribute Service Providers supplying the infrastructure and attributes relied on by connected services. Overseen by the Digital Identity Oversight Authority, the system is continuously improved using the latest cyber security advice, including from the Australian Signals Directorate.

Digital Identity, as part of an e-signatures solution to execute company documents, would extend the strong security processes and procedures already used to protect the most sensitive of government data to commercial transactions.

Improving accessibility

Digital Identity is both an accessible and secure identification verification process. By no longer needing to present in person, Digital Identity helps to remove one of the biggest accessibility barriers to participation in services and regulatory activities. This includes barriers to the participation in regulated company activities and the execution of company documents.

The DTA has researched and tested the Digital Identity system with real people who live with disability, older people, and culturally and linguistically diverse users throughout the process. This focus on accessibility helps to ensure that Digital Identity and its connected services, like any e-signatures solutions for executing company documents, are accessible to users regardless of their digital confidence and access to digital platforms. This includes users living in remote areas and those using different devices.

Concluding comments

The Australian Government's Digital Identity program is well placed to support implementation of these proposed reforms to electronic execution of company documents. In addition to supporting the provisions of the *Corporations Amendment (Meetings and Documents) Bill 2021*, I urge the Committee to support the Trusted Digital Identity Bill once it is introduced. Its passage will enable the expansion of Digital Identity beyond government services and allow it to provide the private sector with a system to give confidence in the identity of a person in a way that will further support the objectives of the *Corporations Amendment (Meetings and Documents) Bill 2021*.

Digital Identity can deliver better security and fraud control outcomes; leverage common infrastructure; make it easier for people to verify who they are in an accessible, convenient and secure way; and give confidence that people are authorised to represent a business.

Thank you for the opportunity to provide a submission. Should the Committee have further questions, please contact [REDACTED]

Yours sincerely,

[REDACTED]

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Digital Transformation Agency
8 November 2021