

7 April 2005

Dr Anthony Marinac  
Acting Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
Suite SG.64  
Parliament House  
CANBERRA ACT 2600

Email: corporations.joint@aph.gov.au



Dear Dr Marinac

### **Inquiry into Exposure Draft of the Corporations Amendment Bill (No.2) 2005**

Insurance Australia Group (IAG) appreciates the opportunity to provide comments to the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into *Exposure Draft of the Corporations Amendment Bill (No.2) 2005*.

I enclose a copy of our submission to Treasury responding to its request for comments on the Exposure Draft by way of written submission.

Please contact me on (02) 9292 9744 if you would like to discuss any of the issues raised in IAG's submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "B Hayes", is written over a light blue circular stamp.

**Dr Barbara Hayes**  
**Group Head, Government Relations and Policy**

7 April 2005

The Hon. Chris Pearce MP  
Parliamentary Secretary to the Treasurer  
Parliament House  
CANBERRA ACT 2600



Dear Mr Pearce

### **Corporations Amendment Bill (No.2) 2005**

Insurance Australia Group welcomes the opportunity to comment on the draft *Corporations (Amendment) Bill (No. 2)* dealing with several important areas of corporate governance reform.

Insurance Australia Group (IAG) is the largest general insurance group in Australia and New Zealand. It provides personal and commercial insurance products under some of the industry's most respected brands including NRMA Insurance, SGIO, SGIC, CGU, Swann Insurance, and State. IAG is listed on the Australian Stock Exchange and has a market capitalisation in excess of \$AUD10 billion, the company also maintains one of Australia's largest retail share registries and has subsequently gained extensive experience in the area of shareholder activism.

#### s.249D(1)(b) - *The 100 member rule*

IAG supports the changes proposed to s.249D of the Corporations Act, commonly referred to as the '*100 member rule*'. IAG has made extensive representations to the Government and Opposition on this matter over the last few years.

In its current form, the legislation has the capacity to allow groupings of shareholders to exercise direction and influence over the administration of a company's meeting programme far beyond the level suggested by their stock holdings.

IAG notes that the amendment as contained in the draft legislation has previously been supported by reports of the Federal Parliamentary Committee on Corporations and Financial Services, most recently in the Committee's June 2004 report to the Parliament on the CLERP 9 legislation.

IAG is confident that the amending legislation will not have a deleterious effect upon the proper activities and involvement of shareholders and will militate against wasteful use of shareholders' funds that can result in the calling of unscheduled meetings of listed companies.

Section 249N – Reduction of the threshold allowing members’ resolutions to be brought to scheduled AGMs

IAG does not support this proposal. Our main reasons are:

- IAG has approximately 1 million members. Giving only 0.00002% of these members the right to put resolutions on the agenda for the AGM is an outcome that seems inconsistent with the policy underlying the proposed change to the 100 member rule because it gave minorities disproportionate influence; and
- The main purpose of AGMs is to give shareholders the right to review the company’s performance and ask questions of the directors, management and, following recent changes, the company’s auditors. This purpose may be subverted if groups with small shareholdings in the company use AGMs to publicise their agendas and take up undue time on issues that are of limited or no interest to the majority of attendees.

We have also had the benefit of reading the submission by the Australian Investor Relations Association (**AIRA**) and we agree with their comments that companies should have more certainty regarding resolutions ‘at the margin’ of appropriateness and relevance. Often such resolutions seek to dictate company policy – an area that can be equally addressed by putting those proposals as a question to the directors. IAG has in the past received a number of such requests. We would welcome any changes which would give companies assistance in dealing with such requests that do not involve the time, cost and potential for challenge involved in seeking guidance from the Court.

Section 249P - Reduction of the threshold for distribution of members’ statements by the company along with the notice of meetings

IAG does not support this proposal. Our main concerns are:

- As set out above in our comments on Section 249N, we do not believe that a group as small as 20 members should have the ability to derail an AGM from its main purpose in a formal manner. This is especially so when an AGM provides an existing forum for even a single shareholder to raise issues directly with the board and management;
- Section 249P allows members to request the company circulate a members’ statement in relation to a very broad number of subject areas. We think lowering the threshold from the current 100 members would open up this provision for abuse and allow minorities to exercise disproportionate influence over the business at an AGM; and
- We do not agree that the proposed change does not create significant cost for shareholders. The cost of adding even a single 1,000-word statement to an AGM pack of materials is significant for large companies such as IAG.

Sections 249O and 249P - Facilitate the electronic circulation of members' resolutions and members' statements

IAG supports this proposal.

Subsections 250A(4) & (5) - Ensure the voting intentions of members are carried out by appointed proxies by preventing the 'cherry-picking' of proxy votes

We think that the proposed wording of Section 250A(4)(d) requires amendment to clarify its operation where a single person holds more than a single proxy. We suggest it should read:

- (d) if the proxy is not the chair—the proxy need not vote on a poll, but if the proxy votes on the poll in any capacity, the proxy must vote on the poll to exercise all of the proxy appointments the proxy holds and must vote in the way specified in the proxy appointments.

[Suggested changes underlined]

We also agree with the comments made by AIRA in its submission in regards to it being appropriate to allow registered shareholders to lodge a vote prior to an AGM rather than having to appoint someone to vote for them.

Subsection 250J(1A) - Amending requirements relating to the disclosure of proxy votes

IAG does not support this proposal. At its AGM, IAG follows the practice recommended by the Business Council of Australia, which suggests disclosure of the number of proxies after the debate, but before the poll. This ensures the debate is not stifled but also provides those attending with a view on the general reaction of shareholders who have lodged their proxies prior to the final declaration that may not be available until after the close of the meeting.

We agree with AIRA that:

- Because proxy numbers may not be an accurate reflection of the eventual voting, the Chair of the meeting should clearly indicate that the proxy figures may not reflect the actual results of the vote; and
- Shareholders should, as a matter of principle, be given better information about the number and percentage of votes cast, and we endorse the categories suggested by AIRA.

Section 323DA - Remove the requirement for companies to disclose information reported to overseas exchanges

IAG supports this proposal. We believe the ASX Listing Rules requirements are sufficient to ensure material information will be disclosed in Australia.

Once again, thank you for the opportunity to comment. Should you require further information on any of the issues raised in this submission please do not hesitate to contact me on 02 9292 9744, or on email [barbara.carney@iag.com.au](mailto:barbara.carney@iag.com.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'B Carney', written in a cursive style.

**Dr Barbara Carney**  
**Group Head Government Relations and Policy**