



30 October 2020

Our ref: 1000_communication reforms treasury submission

Manager
Market Conduct Division
Treasury
PARKES ACT 2600

Via email: buisinesscomms@treasury.gov.au

Submission regarding Exposure Draft Bill Corporations Amendment (Virtual Meetings and Electronic Communications) Bill 2020

Dear Sir/Madam

On behalf of SM Solvency Accountants, an insolvency practice providing corporate and personal insolvency administration services nationally, I submit the following feedback in regard to the Exposure Draft Bill Corporations Amendment (Virtual Meetings and Electronic Communications) Bill 2020.

The feedback relates to the following three issues:

- Support for the reforms;
- Request for additional material about what constitutes a reasonable expectation that electronic documents will be receivable and accessible; and
- Concern that the reforms do not extend to insolvent external administrations / comments about poll voting.

Support for the reforms

We support the reforms in the context of what are likely long-term societal changes as a consequence of the COVID-19 pandemic, and in light of technological developments and large-scale familiarity with such developments since the turn of the century. The reforms provide obvious expense savings, convenience, and environmental benefits.

Additional material about what is a reasonable expectation for accessibility to electronic communication

Section 253S of Division 3 of the draft bill refers to electronic communication being used if it is reasonable to expect that the relevant documentation would be readily accessible and useable.

We are of the view that it could be useful for additional explanatory material about factors which could assist justify a reasonable expectation that potential recipients of electronic communication have access to receive such communication.

Broader explanatory material could also be useful regarding the definition of reasonable as contained in the definition of 'nominated electronic address' in Section 9 of Part 2 of the bill.

Concern that the reforms do not cover insolvent external administrations / comments about poll voting

We are of the view that the Federal Government's temporary initiatives regarding electronic communication during insolvent external administrations is positive for all stakeholders. The measures were contained in the *Corporations (Coronavirus Economic Response) Determination (No. 1) 2020* and are due to expire in late March 2021.

As time and cost are important when dealing with often scant resources in the process of administering a corporate insolvency, we consider it especially important that electronic communication reforms be made permanent in relation to insolvent external administrations, too.

If electronic communication reforms were made permanent for insolvent external administrations, we would prefer clarification that voting at creditor meetings need not be mandatorily via poll using the definition contained in Section 75-115 of the *Insolvency Practice Rules (Corporations) 2016*.

We appreciate the need to ensure clarity of voting intentions during electronic meetings, however we consider it would be efficient and productive to clarify that poll voting using both majority in number and value of creditors be discretionary for either the meeting chairperson or any creditor to elect its use.

Thank-you for the opportunity to provide feedback on the Corporations Amendment (Virtual Meetings and Electronic Communications) Bill 2020.



Solvency Accountants

Should you wish to discuss this submission, please contact myself on 07 3308 4910
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Yours faithfully

Brendan Nixon
Partner

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