

30 October 2020

Manager  
Market Conduct Division  
The Treasury  
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Submitted electronically: [businesscomms@treasury.gov.au](mailto:businesscomms@treasury.gov.au)

## **Re: Submission regarding making permanent reforms in respect of virtual meetings and electronic document execution**

Wilson Asset Management welcomes the opportunity to provide a submission in response to the Treasury's consultation on the *Corporations Amendment (Virtual Meetings and Electronic Communications) Bill 2020* (the Draft Legislation).

As the investment manager for seven leading listed investment companies (LICs): WAM Capital, WAM Leaders, WAM Global, WAM Microcap, WAM Alternative Assets, WAM Research and WAM Active, Wilson Asset Management invests over \$3.5 billion on behalf of more than 90,000 retail investors. Wilson Asset Management is a passionate advocate for retail investors.

The government-mandated social distancing restrictions during the coronavirus crisis presented unprecedented challenges to the financial services industry, and we support the work Treasury has undertaken in ensuring the continuity of company meetings during this time. We are pleased with Treasury's proposed changes to permanently adopt the electronic communication of documents and digital signatures, a benefit of the changes adopted during the coronavirus crisis. However, we strongly oppose any proposal that reduces Board transparency and accountability and believe that permanently changing the Corporations Act 2001 in relation to virtual meetings will further diminish retail shareholders' rights in Australia.

### **Transparency, accountability and access concerns**

Wilson Asset Management does not support the proposal outlined in the Draft Legislation to remove the in-person requirement for company meetings, such as annual general meetings (AGMs), outside of a government-mandated restriction on social gatherings. Through our recent experience in attending virtual AGMs and other company meetings, and the personal stories shared by retail shareholders, we are strongly of the view that permanently removing the in-person meeting requirement would materially reduce Board accountability to all shareholders, particularly retail shareholders, which would be contrary to the intent of Treasury's proposal.

As outlined in the Corporations Act – Sect 250S: *“The chair of an AGM must allow a reasonable opportunity for the members as a whole at the meeting to ask questions about or make comments on the management of the company”*. We hold material concerns that the Draft Legislation proposal to remove the in-person meeting requirement risks producing adverse outcomes for the following reasons:

- The question and answer process in virtual company meetings is often inconsistent, fragmented and uncoordinated, which reduces transparency and accountability.
- The technology for virtual meetings is unreliable and there is currently no suitable industry standard to ensure viability.
- In-person meetings provide all shareholders with certainty that questions have been asked to the Board in their truest form. In virtual meetings, questions and comments from shareholders are often misconstrued, omitted, rephrased or reinterpreted by a moderator or through a platform.
- We have experienced our own questions being omitted by Boards during a virtual extraordinary general meeting (EGM). Ensuring transparency during this process is vital to upholding shareholder trust in company management.
- Virtual meetings in their current state often act as a one-way communication exercise for company management to shareholders. Moderators, Boards and company management have full control of time limits and questions, limiting opportunities for shareholders to follow up on questions where answers are evasive or unclear.
- Importantly, shareholders should be able to publicly put pressure on company management to provide satisfactory responses to questions when required.
- Retail shareholders already face disadvantages in accessing company management. Institutional investors are able to request private meetings with Boards at any point in time. Removing the in-person component of company meetings denies retail shareholders one of the last remaining opportunities to hold management to account on their behalf.

### **Retail investor alienation**

After sharing the proposed changes with our 90,000 shareholders, we received a large number of responses from individuals who were largely unaware of the Draft Legislation and were concerned about its effects. We submit a selection for your consideration:

*“It makes one question one’s interest in that company. Listening to a potentially edited recording - which is what I was supposed to be comforted by when I complained - is clearly not the equivalent of being there”.*

*"I have today learned about the proposal to reduce Board transparency and accountability by permanently removing the requirement for AGMs to be conducted in person. I have recently submitted questions to AGMs held virtually and I have noticed that questions or details of questions are omitted or changed without prior consultation with the submitter".*

*"I am surprised and somewhat disturbed by the proposal to allow public companies to move from 'live' AGMs to an on-line or virtual model. Shareholders absolutely must have the freedom to attend and question the directors on their performance or proposals. This is another movement in the polarising of power and distancing the retail investor from the decision makers".*

*"Without physical meetings, retail shareholders will be further removed from accessing and asking questions of a company's leadership group. Efficient capital markets need informed investors".*

*"This face to face interaction is central to the maintenance of accountability to and respect for small shareholders. It serves to help level the playing field with large wholesale investors and fund managers, who by virtue of their size are in a privileged position to access a company's management and directors outside of the AGM cycle".*

### **Concerns over submission timeframe**

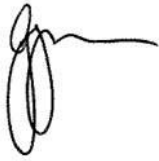
We note that the Draft Legislation was released to the public on 19 October 2020, with industry participants and shareholders expected to complete a review and provide a submission to the Treasury by 30 October 2020.

The proposed changes to the Corporations Act 2001 come at the busiest time of the year for AGMs, and shareholders and companies alike are experiencing virtual meetings for the first time. Given the proposed changes will have a permanent impact to investor participation in AGMs in the future, not providing adequate time to fully consider the legislation's implications risks leading to adverse outcomes. We recommend that Treasury extend the consultation timeframe until virtual meetings can be fully experienced, the risks scrutinised, and the implications properly understood by all regulatory bodies and market participants.

**Conclusion and further information**

We recognise and support the Treasury and its activities in ensuring a fair process as it relates to virtual meetings for all industry participants, particularly retail shareholders. The feedback outlined above is a reflection of the responsibility held by Treasury in establishing equitable practises and access for all. Thank you for the opportunity to make this submission in response to the Draft Legislation. Should you have any questions, I welcome the opportunity to speak with you to discuss this matter further.

Yours sincerely,



Geoff Wilson AO  
Chairman and Chief Investment Officer  
Wilson Asset Management