

19 July 2024

Meetings and Documents Review
c/- Better Business Communications Unit
Market Conduct and Digital Division
Treasury
Langton Crescent
Parkes ACT 2600

Submitted electronically: meetingsanddocumentsreview@treasury.gov.au

Re: Submission to the Statutory Review of the Meetings and Documents Amendments

Thank you for the opportunity to provide feedback on the operational impacts of amendments to the Corporations Act 2001 (Corporations Act), in relation to online meetings and electronic document execution.

As the investment manager for eight leading listed investment companies (LICs), Wilson Asset Management invests more than \$5 billion on behalf of more than 130,000 retail investors and is a passionate advocate for retail shareholders. This gives us a unique perspective into the effectiveness – or otherwise – of the legislation changes.

Wilson Asset Management experienced the Government's efforts to modernise Australia's governance and corporate laws to provide a fit-for-purpose regulatory environment. It is **imperative that technology is used in a way that promotes accountability** through greater visibility and transparency – and does not disenfranchise individual shareholders. Technology should be used to build on the current framework for general meetings and enhance governance and accountability through increased shareholder participation, rather than be viewed as an effective replacement for in-person general meetings for publicly listed companies.

In summary, our position on the legislation changes is:

1. We believe Annual General Meetings of publicly listed companies should be held as hybrid meetings (a combination of in-person and virtual meetings) – **not** exclusively online meetings.
2. We fully endorse electronic communications being the default, with an "opt in" for mailed communications. This provides both cost and environmental benefits for companies.
3. We also welcome electronic execution of company documents for general ease and practicality for company operations.

We expand on the first point below. Please note that the focus of our submission is on general meetings for publicly listed companies.

Overview – hybrid meetings, the gold standard

We would like to give a broad outline of our position regarding changes to the allowed format of Annual General Meetings (AGMs) under the Corporations Act, in addition to attending to some of the specific information regarding the consultation questions posed by the Statutory Review.

Wilson Asset Management supports the legislative amendments that have made it possible for companies to hold hybrid Annual General Meetings (AGMs) and Extraordinary General Meetings (EGMs). This endorsement is based on almost three decades' of experience investing in thousands of Australian companies, as well as being the investment manager for eight ASX-listed companies.

Since beginning to hold hybrid AGMs in 2020, we have noticed a significant increase in shareholder engagement, made possible through virtual attendance and participation at our meetings. This virtual participation is an enhancement to the already existing in-person meetings, which are imperative to transparency and accountability of Boards and company management to shareholders. Virtual meetings should not be seen as a replacement for physical in-person meetings. They should instead be viewed as an enhancement to existing in-person formats, which fosters increased participation and attendance from shareholders.

Wilson Asset Management strongly believes that the Government should reverse the amendment that allows companies to hold virtual-only meetings. We believe this change has shifted the balance of power away from shareholders, particularly retail shareholders, by eroding transparency, accountability and access.

Hybrid AGMs – our experience

Wilson Asset Management firmly believes that the fully hybrid AGM model is essential to engagement with our 130,000 plus shareholders. We have invested in this format and committed to the increased cost on a yearly basis. We have done this to finance a comprehensive, easy-to-use online platform that allows shareholders to access company meetings both in-person and virtually, provides access to electronic information, and enables shareholders to ask questions of the Board and investment manager remotely and at the the physical venue location.

In the period from 2019 to 2023, the average number of attendees at AGMs per Wilson Asset Management company increased by 157%. This substantial spike in shareholder participation at our AGMs across a four-year period is undoubtedly due to greater access resulting from our adoption of the hybrid meeting model. Feedback from investor consultations has confirmed that the hybrid meeting structure better supports and caters for shareholders in different personal situations including, but not limited to, those who are ill, those who fear contracting illnesses (particularly COVID-19), those who cannot travel to our AGMs due to their geographic location; and those who have work or other responsibilities.

As evidenced by our data, the full-hybrid model has greatly increased participation across our listed investment companies' AGMs, as they provide greater access for shareholders and guests who may be interested in becoming shareholders. Having the option however to attend in person remains critical.

We believe the option for physical attendance is critical to promoting accountability through visibility, access and transparency. We want our shareholders to have confidence that all their questions will be heard in their true form and answered by the Board and we have no desire to remove the right of our shareholders to look our Board and management team in the eye and hold us to account.

The rights of shareholders

Principle 6 of the ASX Corporate Governance Principles and Recommendations – respect the rights of security holders - emphasises the importance of respecting the rights of shareholders, including their right to participate effectively in company meetings. We strongly believe that allowing companies to hold virtual-only meetings directly contradicts this corporate governance principle and constitutes a legislated suppression of shareholders rights.

The ASX Corporate Governance Principles and Recommendations aim to create an environment where all shareholders are well-informed and empowered to engage actively with the companies they own. Effective communication, transparency and ethical behaviour are key to fostering engagement and trust between companies and their shareholders. Virtual-only meetings are an obstacle to achieving these goals.

Virtual-only meetings - transparency, accountability and access concerns

Based on our own experience in attending virtual-only AGMs and other company meetings – as well as personal stories shared by some of our 130,000-plus retail shareholders - we believe that the permanent removal of the in-person physical meeting requirement has materially reduced Board accountability to all shareholders, particularly smaller retail shareholders. This is a significant backward step for corporate governance in Australia.

As outlined in the Corporations Act – Section 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 structure of virtual-only meetings contravenes this section of the Act for the following reasons:

- The question and answer process in virtual company meetings can often be inconsistent, fragmented and uncoordinated, which reduces transparency and accountability.
- The technology for virtual meetings can be unreliable and there is currently no suitable industry standard to ensure viability. In speaking with our shareholder base, many retiree investors do not have suitable access to reliable technology, hindering their ability to ask questions of Boards and company management at virtual only meetings for other companies they are invested in.
- 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 an online platform. Directors have the ability to group multiple questions to answer them with a single, broad and generic response.
- 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. In this instance, a shareholder has no ability to object or to hold a Board accountable.
- 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 over time

limits and questions, limiting opportunities for shareholders to follow up on questions where answers are evasive or unclear. This denies shareholders their right 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, or larger, 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 teams and Boards to account.

The virtual aspect of an AGM is simply a complementary addition to an in-person physical meeting. The meeting is enhanced by the online platform technology that allows shareholders who are unable to attend in person to watch and ask questions. However, as there are limitations to this technology, virtual meetings cannot be seen as a replacement for in-person meetings.

Conclusion

Wilson Asset Management understands - and supports - the Government's efforts to update Australia's corporate governance and laws to ensure that they are fit-for-purpose in the current environment.

We believe that electronic communication and execution of documents is a step forward for publicly listed companies. It removes the unnecessary burden of processing physical mail and the continually increasing financial and environmental cost of this exercise.

Wilson Asset Management also believes that the legislative changes allowing companies to hold hybrid in-person and virtual meetings has promoted broader shareholder engagement, while still upholding shareholder rights, ensuring strong corporate governance, and maintaining trust between companies and their investors.

Unfortunately, the same cannot be said for virtual-only company meetings. We believe that by allowing companies to hold such meetings, the Government is eroding corporate accountability, transparency and governance – and is disenfranchising individual shareholders, particularly retail investors. We call on the Government to reverse this misstep.

Thank you for the opportunity to make this submission. 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