



30 October 2020

Manager  
Market Conduct Division  
Treasury  
Langton Cres  
Parkes ACT 2600

Email: [businesscomms@treasury.gov.au](mailto:businesscomms@treasury.gov.au)

Dear Sir/Madam,

**SMSF ASSOCIATION SUBMISSION ON VIRTUAL MEETINGS AND ELECTRONIC COMMUNICATIONS  
BILL 2020**

The SMSF Association welcomes the opportunity to make a submission on the Corporations Amendment (virtual meetings and electronic communications) Bill 2020.

We are supportive of measures which embrace the use of electronic measures in a post COVID environment. The broader SMSF industry and the SMSF trustee establishment and ongoing financial reporting process contains a significant number of signatures and resolutions annually. The implementation of broader electronic measures should improve efficiencies and in turn further reduce fees in the SMSF sector.

Many SMSF trustees and their trusted advisers made use of the temporary electronic changes in Determination No. 3 to positive effect during the COVID pandemic. The benefit of this measure was mainly utilised by SMSFs with a corporate trustee for trust deeds and the ongoing resolution of meetings.

In addition, the SMSF industry also utilised relief relating to the ATO measures through the provision of electronic signatures on financial statements.

We believe it would be a backward step if these relief measures were not made permanent. Not only will they provide fee reductions, but they also can improve timeliness in the lodgement of annual returns.

However, we note it is important that adequate and reasonable protections are in place so that individuals are not at risk of poorly or illegally executed corporate documents. We believe the Bill enforces this principle with regards to electronic signatures.

*Timing of legislation*

We believe the Government should take the opportunity as soon as possible to modernise the relevant provisions in the Corporations Act. Importantly, this means ensuring the provisions will



legally apply in a timely fashion as this is essential to avoid uncertainty and gaps between the current temporary determination and the new permanent legislation.

Therefore, the legislation must be effective prior or from 21 March 2021 when the temporary Determination ends.

#### *Electronic signatures*

The SMSFA supports the ability for company documents to be executed both with and without a seal through electronic means. We also support documents relating to a meeting to be signed electronically. These measures will be positive for all SMSFs which operate under a corporate trustee.

As at 30 June 2019, 61% of all SMSFs had a corporate trustee. This means there are approximately 234,000 SMSFs, with multiple individual trustees, who are unable to legally comply with the electronic signature requirements.

We therefore would encourage the Government to explore legislative amendments which ensure that individual trustees are also able to electronically execute deeds and resolutions for meetings.

#### *Federal and State alignment*

It is also important that State legislation aligns with Federal legislation. We are aware some State revenue offices will only accept wet-inked documents for certain transactions.

Therefore, we encourage the Federal Government to ensure that States follow the Federal lead on this issue.

#### *Future opportunities*

The Government should also look for further opportunities to integrate and align measures with the Government's Digital Business Plan. As the Government seeks to modernise business registers and introduce Director Identification Numbers (DINs), ensuring measures are designed to work cooperatively will further increase efficiencies for companies and shareholders.

We believe there is potential in the long term to enable SMSF trustees and their advisers to upload copies of their deeds to online Government registries which will provide further certainty and protections from legal disputes. The potential to 'never lose a trust deed' would be significant reform for the superannuation and legal sectors.

#### *Virtual AGMs*

SMSF investors are very significant shareholders in most Australian listed companies. We support the opportunity for them to express their views to boards in a flexible manner. The most important concern to address is that all shareholders are given a choice of how they participate in AGMs and the opportunity to have their voices heard.



We would prefer to see an opportunity for hybrid AGMs to be prioritised rather than just virtual AGMs. Some SMSF investors would prefer the opportunity to ask questions directly to directors in a traditional AGM, whereas others may prefer the flexibility and safety of access via virtual means. A hybrid offering has the potential to satisfy both of these purposes.

If you have any questions about our submission please do not hesitate in contacting us.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'P. Burgess', written over a light blue grid background.

Peter Burgess  
Deputy CEO/Director of Policy and Education  
SMSF Association

#### **ABOUT THE SMSF ASSOCIATION**

The SMSF Association is the peak body representing SMSF sector which is comprised of over 1.1 million SMSF members who have more than \$700 billion of funds under management and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisors and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them access to independent education materials to assist them in the running of their SMSF.