

Article Information

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Service: Corporate & Commercial

Sector: Defence, Education, Energy & Resources, Financial Services, Government, Real Estate

Temporary relief under the Corporations Act in response COVID-19 allowing electronic signatures and virtual meetings has lapsed

In response to the COVID-19 pandemic, the Treasurer put in place temporary relief measures allowing companies to hold their AGMs and other meetings virtually and to allow for the electronic execution of documents. This temporary relief expired on 21 March 2021.

The *Corporations (Coronavirus Economic Response) Determination (No. 3) 2020* expired on 21 March 2021. It was expected that these temporary rules would be extended, however the Treasury Laws Amendment (2021 Measures No. 1) Bill 2021 did not pass on the last Parliament sitting day prior to 21 March 2021. The Senate has adjourned debate on the Bill until 3 August 2021.

As a result, the pre-COVID requirements under the *Corporations Act 2001* (Cth) (**Corporations Act**) relating to execution by company officers and the holding of company meetings apply.

Execution of Documents

In relation to execution of documents, this means the return to the old framework. That is, a company seeking to execute a document (whether an agreement or deed) under section 127 of the Corporations Act, cannot sign it electronically, or by way of split execution. However, provided that a company has the appropriate internal frameworks in place, such as a constitution which empowers the company to sign agreements electronically, then a company may be able to validly execute documents electronically.

Virtual Meetings

On 29 March 2021, in a view to give the market some certainty, ASIC published a media release stating that it would adopt a temporary 'no action' position in relation to the convening and holding of virtual meetings. ASIC noted that the position will:

- support the holding of meetings using appropriate technology;
- facilitate electronic dispatch of notices of meeting including supplementary notices; and
- allow public companies an additional two months to hold their AGMs.

ASIC has stated it will not be providing a no action position in relation to electronic signing under the Corporations Act.

Until such time as the Bill passes, from 22 March 2021, to ensure the validity of execution by company officers, you should revert to signing documents, particularly deeds, in wet ink and on a single static counterpart of the document or otherwise amend the company's constituent documents to allow for the valid execution of documents by electronic means.

Companies should also comply with the Corporations Act relating to the calling and holding of shareholder meetings.