

10 December 2021

Manager
Market Analysis and Deregulation Unit
Market Conduct Division
Treasury
Langton Cres
Parkes ACT 2600

Co: mbcomms@treasury.gov.au

Dear Sir / Madam,

Improving the technology neutrality of Treasury portfolio laws

Thank you for the opportunity to make a submission to the Treasury's consultation on improving the technology neutrality of Treasury portfolio laws.

DocuSign is a global public company that helps businesses, governments and individuals around the world connect and automate how they prepare, sign, act on and manage electronic documents.

We have been doing this for nearly two decades, and today have more than one million customers and over a billion users electronically signing with our agreement cloud platform across over 180 countries.

We closely work with private industry and the public sector around the world regarding innovative ways for them to use digital services, such as DocuSign eSignature, which is part of our agreement cloud platform, to efficiently operate and effectively serve their customers and constituents.

DocuSign has globally advised governments on drafting and implementing critically important regulations and legislation regarding digital transformation. For many years in Australia, we have been advising and advocating at a Commonwealth and State Government level for the reform of electronic document execution to further increase the clarity and certainty pertaining to the usage of electronic documents and signatures.

In the past 12 months, DocuSign has run more than 20 industry, small business, legal practice, and consumer consultations for thousands of individuals on the electronic execution of documents in Australia. During these sessions, we have educated stakeholders on the technology, shared best practices in using such technology, and provided comparative studies on how other jurisdictions are embracing such technologies to ensure their constituents are more efficient and effective in their personal and professional lives.

The consistent feedback from all these consultations is that the fundamental challenge that has been standing in the way of businesses and individuals effectively executing electronic documents, cutting 'red tape', and updating their digital technology platforms, is confusion and uncertainty around government regulations, and how to comply with them consistently and efficiently.

We therefore welcome the Treasury Laws Amendment (Modernising Business Communications) Bill 2021 (Exposure Draft Legislation) which is the subject of this consultation.

Specifically, we welcome that the Exposure Draft brings even further clarity to the execution of company documents by expanding the scope of the changes included in the Corporations Amendment (Meetings and Documents) Bill 2021 so that all documents, including deeds, can be signed electronically, and witnessed using electronic means under the Corporations Act.

We are pleased that this includes documents signed by an agent on behalf of a company and agree that the rules for signing and executing documents, as outlined in the Corporations Amendment (Meetings and Documents) Bill 2021, should apply to all documents being signed under the Corporations Act. As outlined in the Explanatory Memorandum, this means that:

- A document will only be validly signed if it identifies the person signing the document, indicates their intention to be bound by the document and the method of signing is appropriate in all the circumstances.
- A person may sign or execute the document in one or more capacities by signing the document only once if that person's signature block states each capacity in which they are signing.
- A document does not need to be signed on paper, parchment or vellum or meet common law delivery requirements to be validly executed.

DocuSign is also pleased that ASIC or the Registrar cannot refuse to receive or register a document on the sole basis that it was signed or executed electronically.

We believe these clarifications should end any remaining confusion or uncertainty around electronically signing and executing documents under the Corporations Act and ensure businesses, their employees, and individuals are able to:

- Execute electronic documents more securely and reliably.
- Sign electronic documents in minutes, rather than days, and have such documents immediately sent back to each of the signers from a computer, tablet, or mobile device.
- Remove the costs associated with manual tasks, such as meeting face to face, printing, scanning, posting or couriering documents.
- Save significant hard costs, such as paper, printing, photocopying, scanning, and storing documents. Such considerable paper reduction also has a positive environmental impact.
- Complete electronic documents from nearly anywhere, at any time and by anyone. This flexibility is meaningful for people living in regional, rural, and remote areas, small businesses, and people with disabilities.
- Automatically generate and store a robust court-admissible audit trail for each electronic document signed. This electronic evidence offers greater protections than those available with wet ink signatures.

While not explicitly referred to in this consultation, DocuSign feels it is important to highlight that many documents covered by Commonwealth laws are still unable to be electronically signed or executed as these laws are exempt from the Electronic Transactions Act 1999.

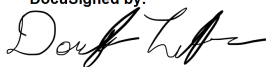
These exemptions continue to add to the confusion and uncertainty that businesses, their employees, and individuals face when wanting to electronically sign and execute documents in Australia.

We understand that Treasury, through the next phase of improving the technology neutrality of Treasury portfolio laws, is considering reforms which will remove exemptions to the Electronic Transactions Act 1999 for relevant legislation.

We encourage Treasury to prioritise these reforms so that the Australian economy can realise the full cost saving and efficiency benefits that electronic execution of documents offers.

Should you have any questions, we would be more than happy to further assist in this important and impactful endeavour.

Sincerely,

DocuSigned by:

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Doug Luftman

**Vice President & Deputy General Counsel Product, Innovation Services and Government Affairs
DocuSign, Inc.**

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