

What You Need to Know About Virtual Annual Shareholder Meetings

Overview

Virtual annual shareholder meetings are not new – but they are an increasingly viable and attractive alternative in this period of social distancing and shelter-in-place. While previously not a widely used practice, the SEC, the exchanges and investors alike acknowledge the need for leniency and virtual workarounds in this unprecedented environment.

Hosting a meeting online versus in person does limit engagement between a company’s management and shareholders. To ensure there is open and transparent dialogue between the two groups, companies should consider how to increase shareholder engagement efforts before, during and after an online meeting in order to create and enhance opportunities for communication.

Current Requirements

While the SEC has announced companies can hold virtual annual shareholder meetings, the flexibility to move to a virtual meeting is also based on factors such as:

- The state law in which the company is incorporated; and
- The company’s corporate bylaws

In response to COVID-19, some states are addressing the need for flexibility to host annual shareholder meetings online by pushing through “band-aid” legislation. However, it is critical to work with in-house or outside legal counsel to understand the specific requirements of your state and corporate bylaws.

Shareholder Notification: Change to Date, Time or Location

According to the SEC, companies that have already mailed and filed their definitive proxy materials can communicate a change in date, time or location to shareholders without mailing additional soliciting materials or amending its proxy materials if they:

- Issue a press release announcing the changes;
- File the press release as definitive additional soliciting material on EDGAR;
- Take all reasonable steps to inform other intermediaries in the proxy process (such as any proxy service provider); and
- Take all reasonable steps to notify other relevant market participants (such as the appropriate national securities exchanges).

Haven’t mailed or filed your definitive proxy materials? Consider releasing a statement that the date, time or location of your meeting could change based on the developments of COVID-19. This puts shareholders “on notice,” so they won’t be caught off-guard if a change needs to be made closer to the meeting date.

Conducting a Virtual Annual Shareholder Meeting

- **Format:** Just like an earnings call, companies can host their annual shareholder meeting online via webcast, with presenters sharing prepared remarks and corresponding slides.
- **Shareholder Authentication:** The same way you would track and check-in registered shareholders or proxy holders at a physical event, you need to have a mechanism in place to track registered shareholder participation on a call.

- **Voting:** Companies are responsible for disclosing to shareholders and proxy holders how voting will be conducted online and should include resources for technical support (e.g. phone number, online chat line for live assistance during meeting). Just as you track and authenticate participants, companies must have a voting platform so votes can be collected and formally recorded. Companies should encourage shareholders to vote and submit proxies in advance of the online meeting. **Fielding Questions:** Have at least one person staff the Q&A queue. Their purpose is to review questions, identify themes and ask questions of the executive team. They should work with legal counsel in real time to identify appropriate questions. If a question comes in that is not appropriate, it is OK to not address the question. But if it is appropriate, companies are obligated to address the question. For increased transparency, consider publishing the Q&A online after the shareholder meeting – this may include answering questions that were not connected to the business of the meeting, but that were commonly asked.
- **Presentation of Shareholder Proposals:** The SEC encourages companies, to the extent possible under state law, to provide shareholder proponents or their representatives the ability to present their proposals through alternative means to appearing in person, such as by phone, during the 2020 proxy season. The SEC Coronavirus Guidance also considers the absence of a shareholder from a meeting due to concerns with Coronavirus, just cause, and therefore the company cannot restrict shareholder proposals by the shareholder in future years.
- **Set-up:** According to Broadridge, ideally companies will set-up virtual meetings at least four weeks out from the meeting date.
- **Response from Proxy Advisory Firms:** Glass Lewis updated its [guidelines](#) stating that for the rest of the 2020 proxy season (March 1 – June 30, 2020), it “will generally refrain from recommending to vote against” companies who host virtual shareholder meetings as long as the company discloses the format change is due to COVID-19. ISS has [reportedly shared](#) that given the extreme environment due to COVID-19, its institutional clients will likely be more understanding as long as companies provide appropriate disclosure and don’t limit shareholders’ rights to participate.

SEC Guidance

- <https://www.sec.gov/ocr/staff-guidance-conducting-annual-meetings-light-covid-19-concerns>

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