

COVID-19 Corporate Update: UK Public Company AGMs

April 21, 2020

UK Corporate

The Government has announced further information on the measures to be brought forward to assist public companies in meeting their statutory and regulatory obligations to hold annual general meetings (AGMs) during the current season. On 17 April 2020, the Department for Business, Energy and Industrial Strategy (BEIS) and the Financial Reporting Council (FRC) published a [Q&A](#) to provide guidance on “Company filings, AGMs and other general meetings during Covid-19”. The key features of the Q&A are as follows.

- **Time period for holding an AGM:** while an extension to the statutory deadline (holding an AGM within six months of the end of a financial year) *is* being contemplated, this is unlikely to be forthcoming. An overarching consideration is that, in practice, public companies will still want to hold AGMs within the existing timeframes in connection with important matters. The majority of companies will wish to put their accounts before shareholders and, importantly, renew their corporate authorities (especially as many companies may need to raise equity capital in light of the uncertainties created by the COVID-19 pandemic). In reality, if the AGM timeframe is not extended, then public companies will not be able to take full advantage of the extension for filing their accounts, as it is likely that companies will want to use their AGM as the meeting to approve the accounts.
- **Closed AGMs:** once the proposed measures become law, companies will temporarily be able to hold virtual “closed” meetings by way of telephone conference or other electronic means irrespective of what their articles of association say. In fact, companies will have the ability to override any strict requirements in their articles for a short period to facilitate AGMs during the COVID-19 pandemic. It is envisaged that the minimum number of people (typically between two and five shareholders, who may be directors or senior employees) will make up the quorum of the meeting, obviating the need for a physical meeting. These temporary measures will be helpful to overcome the current legal requirement to have a physical “place” of meeting, and enable companies whose articles currently do not permit hybrid or virtual AGMs to convene an AGM in a manner that does not compromise people’s safety.
- **Virtual AGMs:** completely virtual AGMs are considered, but dismissed. It is considered that virtual meetings are too untested and uncommon in the UK (not least because investor bodies have generally been opposed to their use), and also the additional procedural and technical hurdles involved in holding virtual AGMs are too challenging for companies to implement on short notice.
- **Proxy voting:** shareholders will be encouraged to vote by proxy. Shareholders are currently prevented from attending a physical AGM by the Stay at Home Measures,

which can be enforced by the chairperson who has broad common law powers to act to ensure a meeting is orderly and safe for its attendees.

- **Advanced shareholder engagement:** in lieu of shareholders being able to attend the AGM, companies are advised to consider alternate ways of maintaining open lines of communication and engagement with shareholders. One suggestion made in the Q&A, is to respond to any shareholder questions that have been sent in by electronic means—including by noting responses in the minutes of the AGM. Additionally, companies are advised to consider holding shareholder days later in the year to offer shareholders the opportunity to access the board, to hear about the recent activities of the company, and, crucially, to question the directors.
- **Hard copy documents:** it is proposed that companies will be permitted to temporarily restrict communications with shareholders to e-mail, website and other forms of electronic communication, and will not have to honour shareholders' requests for hard copy documents due to the logistical problems of doing so posed during the COVID-19 pandemic.

No clear timeline has been set out for the new proposed legislation, other than reassurances that these are being considered urgently. In the interim, companies are recommended to follow the recent guidance produced by the Chartered Governance Institute (ICSA) and others.¹

Our earlier Corporate Updates regarding COVID-19 and matters relevant to public companies are available, as follows:

- [COVID-19 Corporate Update for UK Public Companies](#) (dated 3 April 2020)
- [COVID-19 Corporate Update: Capital Raising by UK Public Companies](#) (dated 14 April 2020)

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¹ <https://www.icsa.org.uk/assets/files/pdfs/guidance/agms-and-impact-of-covid-19-supplement-web.pdf> (supplementary guidance) and <https://www.icsa.org.uk/assets/files/pdfs/guidance/agms-and-impact-of-covid-19-web.pdf> (original guidance)