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COVID-19: Planning For Your AGM

by **lk-shields**

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As the situation with Covid-19 continues to evolve, Irish companies are advised to implement and test their business continuity plans in relation to their upcoming AGM with full regard to public health guidelines and restrictions.

This article will look at some of the precautionary measures that companies can take in the lead up to their AGM with a view to safeguarding the health and safety of their shareholders and employees.

Responding to Covid-19

Companies should make every effort to ensure that shareholders are informed of the Company's response to Covid-19 and make them aware of any decisions made regarding the AGM.

It is important that companies keep up-to-date with the latest public health guidelines and communicate with shareholders, as appropriate. The health and safety of shareholders and employees should be a priority.

AGM Notice

Irish companies must provide at least 21 clear days' notice for their AGM. Companies should consider the method of issuing notices and avoid sending notices from affected areas by post or other means that require "at-risk" physical handling at any stage of the delivery.

The AGM notice should be accompanied by an additional information leaflet such as the latest HSE leaflet outlining the steps to protect attendees and others from transmission of Covid-19 at the AGM. This should include the company's response to Covid-19 with regard to the AGM such as availability of hand sanitiser, seating arrangements and other prescribed precautionary measures being implemented by the Company.

Minimise Attendance

In order to minimise the number of persons in physical attendance, the AGM notice should encourage shareholders to appoint a proxy or attend via telecommunications. In addition, the rules and procedures for electronic voting should be communicated clearly to shareholders within the notice.

Where an AGM notice has already been issued, an electronic follow-up communication should be sent to shareholders with the latest public health information and any related decisions by the Board of the Directors. Given the rapidly evolving nature of the situation, the notice should also set out how the company will communicate further updates.

Proxies

Subject to the constitution of a company, shareholders are entitled to appoint a proxy to attend and vote at the AGM. The shareholders may grant proxies to a small number of persons such as independent directors who may attend in person and vote on their behalf at the meeting. Shareholders may also be able to vote by proxy in advance of the meeting.

A form of proxy should be included in the AGM notice which includes contingency provisions should the appointed proxy not be able to attend at short notice due to travel restrictions, illness or as a precautionary measure.

The appointment of proxies should minimise the number of persons physically in attendance at the meeting. In this scenario, shareholders may be invited to submit their questions in advance of the meeting. Companies should be aware that the meeting must still satisfy the quorum requirement and be held at a physical location.

Electronic Participation

Where a company's constitution so provides, shareholders may participate in the AGM by electronic means such as videoconferencing or via a web portal. This enables shareholders to participate in the meeting without attending in person and to cast their own vote without using a proxy.

As part of their business continuity planning, companies should be testing their telecommunications systems to ensure that they are reliable and can facilitate an AGM as well as remote working.

It is worth noting that the meeting quorum must still be satisfied, and the meeting must be convened at a physical location.

Dispense with AGM

Irish companies must hold an Annual General Meeting (AGM) once in each year, and not more than 15 months may elapse between AGMs. However, single-member companies and private limited companies may elect to dispense with holding a "physical" AGM while the spread of the Covid-19 pandemic continues. All shareholders entitled to attend and vote at such AGM may sign a written resolution dispensing with the requirement to hold the AGM.

Adjourning your AGM

A company's constitution will usually allow the company to change the date and location of its AGM, if required. Many companies have already decided to adjourn their AGM until a later in the year and have communicated this to shareholders.

However, Irish companies which cannot dispense with their AGM must be mindful that no more than 15 months should elapse between AGMs. As there is still great uncertainty as to how long the Covid-19 crisis will last, companies should continue to monitor the situation closely with a view to adapting policies and procedures to allow the AGM to take place rather than to adjourn it. Ideally the AGM will take place with the minimum number attending in person.

Companies should also be ready to adapt their conference policies according to the latest public health guidance and restrictions. For example, a small window of opportunity to hold meetings may arise and companies should be familiar with the provisions of the Companies Act 2014 that may allow for a shorter notice period of 7 days, subject to shareholder approval. In any event, all decisions that affect the AGM should be communicated to shareholders.

Understanding and communication are of fundamental importance. Many companies are faced with the predicament of a statutory obligation to hold an AGM within a specified time period and public health guidance avoidance of large gatherings.

Directors and company secretaries should work closely to ensure that they are aware of all statutory AGM requirements and the options contained within the legislation that may be utilised to hold the AGM.

The LK Shields Company Secretarial & Compliance team are available to provide practical advice and legal insights to business owners, directors, compliance officers, and decision-makers faced with a crisis.

For further coverage about business continuity during the Covid-19 outbreak, please visit [our designated special insights page](#).

About the Author