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US companies shift to online annual shareholder meetings due to coronavirus

By Esther Whieldon

An increasing number of U.S. companies are moving their annual shareholder meetings from in-person to virtual to adapt to the coronavirus pandemic, although many have yet to announce final plans.

Publicly traded companies are required to hold annual proxy meetings each year during which investors vote on such matters as new board members and nonbinding shareholder resolutions. While the vast majority of those gatherings in previous years have been in-person, the spread of the coronavirus has prompted an increasing number of companies to consider alternative options.

ISS Corporate Solutions, a subsidiary of proxy advisory firm ISS, surveyed 230 companies. In a March 26 email to clients, the firm said 37% of those companies had opted to hold virtual-only meetings, 4% were planning a hybrid meeting, 47% had yet to make a decision, and 11% either would not change their plans or already held their meeting.

A screen of S&P Global Market Intelligence's database also indicates more companies are going with virtual gatherings or mentioning it as an option for 2020. The screen found that 163 U.S.-based companies and subsidiaries mentioned the phrase "virtual meeting" and the term "COVID-19" or "coronavirus" in proxy-related filings with the U.S. Securities and Exchange Commission from Jan. 1 through March 30. Duplicate entries for companies were excluded from the total. In comparison, only 51 U.S. companies used the phrase "virtual meeting" in proxy-related filings over the same period in 2019.

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The companies that have already announced a change to a virtual-only format this year include Boeing Co., [Exelon Corp.](#), [Bank of New York Mellon Corp.](#), insurance broker [Brown & Brown Inc.](#), [Newmont Corp.](#), Acme United Corp. and [Dominion Energy Inc.](#)

In the meantime, companies that were undecided on whether to go virtual have followed the SEC's [recent guidance on the subject](#) to indicate when delivering their proxy materials that they are considering doing so. Some examples of companies that mentioned in their proxy documents they are mulling a virtual option include [Wells Fargo & Co.](#), [Cigna Corp.](#), [American Express Co.](#) and [DISH Network Corp.](#)

Companies may also opt to postpone their meetings until a later date, such as when German utility [RWE AG](#) recently put its meeting [on hold](#).

While most companies are incorporated in states that allow virtual meetings, eight states require in-person meetings and another 13 states plus the District of Columbia permit meetings to include a virtual option, known as a hybrid meeting, said Cathy Conlon, the head of corporate issuer strategy at [Broadridge Financial Solutions Inc.](#), which offers virtual meeting services. Broadridge facilitated a little more than 300 virtual meetings in 2019 and expects that number to more than double this year, Conlon said in an interview.

But some of those states with prohibitions on virtual-only meetings are temporarily allowing meetings to go that route. In late March, the governors of Connecticut, Georgia, New Jersey and New York either signed legislation or issued executive orders waiving the ban on virtual-only meetings for companies in their states. Other states that require in-person only proxy meetings are Alabama, Alaska, Arkansas, Idaho, New Mexico, South Carolina and South Dakota, Conlon said.

A review of Market Intelligence data indicates that the number of companies currently legally unable to hold a virtual-only meeting is relatively low. Of the 2,090 U.S.-based companies and subsidiaries traded on U.S. exchanges that have a market cap greater than \$300 million and for which the data listed the state of incorporation, only 82 are in states that require in-person only or hybrid meetings and had not yet waived the requirement as of March 24.



Protesters gather outside an Exxon Mobil Corp. annual meeting in 2006.

Source: AP Photo

One caveat is New York, where the waiver extends only to meetings held through April 19, although some experts have indicated they believe the governor will ultimately extend that waiver.

But companies that are incorporated in New York and are planning on meeting after April 19 have had to make alternative plans in the meantime. For instance, International Flavors & Fragrances Inc. on March 24 announced that it will be holding a hybrid meeting and that all of its board members and management team would be attending by "remote communication" due to the coronavirus. But the company went on to indicate that, if permitted by law, it reserved the right to hold a virtual-only meeting. International Flavors did not immediately respond to a request for comment.

Some companies, such as [MGE Energy Inc.](#), have also had to amend their own bylaws to allow a virtual meeting option.

Shareholders hope meetings will return to in-person in the future

Shareholder advocacy groups that in the past have opposed virtual-only meetings say they now support the option so long as meetings return to in-person once the pandemic is under control.

The groups assert that in-person meetings are a key part of their engagement with companies on sustainability and environmental issues.

For instance, As You Sow CEO Andrew Behar believes that a discussion he had with one of the board members of Monster Beverage Corp. during a coffee break at the company's 2018 annual general meeting was the catalyst behind Monster's decision several months later to work with As You Sow to study and publish a slavery and human trafficking report on its sugarcane supply chain and start on the path to addressing those issues. The related resolution had received only 20% support at the 2018 meeting.

"It's those kinds of things that we don't want to lose, that person-to-person contact," Behar said in an interview. "This year obviously we're going to lose" the in-person option. "That's OK. But we just don't want that to become institutionalized." He noted that As You Sow does not object more generally to hybrid meetings that offer both in-person with a virtual option.

Shareholder advocates such as the Interfaith Center on Corporate Responsibility and Shareholder Rights Group have similarly indicated they are temporarily lifting prior objections to virtual-only or hybrid meetings in light of the coronavirus.

"We recognize that this is a reasonable and necessary public health measure, yet we also believe all efforts should be made to retain the interactive nature of these meetings and provide ample opportunity for shareholders to engage with corporate boards and management," ICCR and the Shareholder Rights Group said in a March 24 statement.

To that end, they urged companies to return to an in-person or hybrid format "when public health advisories allow," and encouraged companies to also "offer a virtual option for proponents to present their shareholder proposals" in the meantime.

Best practices for virtual meetings

The groups also called on companies to exercise best practices such as fostering a meaningful question and answer session. Companies should allow shareowners to ask questions in a live format, either through written or video input to the meeting or by phone, and to receive a response to the question from the board chair or CEO, the groups suggested.

"Questions may include, but not be limited to, topics that are not otherwise on the meeting agenda, as would normally be the case in an in-person meeting," the groups stated.

Moreover, the groups said the live feed should include all key company representatives who participate in the meeting, including the chair, CEO, any lead or presiding director, chairs of certain board committees and the corporate secretary.

Meredith Cross, who represents companies on proxy-related issues and is a partner at the law firm Wilmer Cutler Pickering Hale and Dorr LLP, said she does not expect virtual meetings to become the new normal in future years. Cross also said she has heard from some mid-cap sized companies that, because they rarely have people attend their annual meetings, are leaning toward sticking with in-person meetings this year.

"The most important thing that companies can do is to make their virtual meeting as engaging as they can," said Broadridge's Conlon. Companies should treat the meetings similar to how they handle their earnings calls, "which is having a robust discussion with shareholders, giving them the opportunity to participate and hear a business presentation as well as the agenda of the meeting itself," Conlon said.