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# Report of the 2020 Multi-Stakeholder Working Group on Practices for Virtual Shareholder Meetings

Rutgers Center for Corporate Law and Governance  
Council of Institutional Investors  
Society for Corporate Governance

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# Report of the 2020 Multi-Stakeholder Working Group on Practices for Virtual Shareholder Meetings

## Introduction

The unprecedented halt to the U.S. and global economies, as well as normal social engagement, caused by the COVID-19 pandemic have had reverberating impacts within corporate America, including on annual meetings of shareholders. As companies faced evolving uncertainties around business gatherings and travel during the 2020 proxy season, many found themselves forced to move their annual meetings online with little time to organize and notify shareholders. In that process, companies, shareholders, corporate governance advisors, and service providers all experienced many challenges, including a lack of familiarity with remote shareholder meetings, novel legal compliance issues (which in some cases necessitated emergency governmental action), and unanticipated logistical hurdles occurring before and during the annual meetings.

This year has been a watershed for virtual shareholder meetings (“VSMs”) in the U.S. in ways never anticipated by either the corporate or investment communities. When Broadridge Financial Solutions first rolled out its VSM product in 2009, the value proposition was to make annual meetings more convenient and less expensive for companies via innovative digital technology. In time, it could be used as a tool for companies to engage with a much broader audience of shareholders beyond the relative few who attended annual meetings in person in recent years. Four companies (including Broadridge itself) used Broadridge’s VSM product for their annual meeting that year, and of those only one used it completely in lieu of an in-person meeting. Other service providers soon developed and marketed their own VSM platforms. However, uptake for VSMs was slow, due in part to shareholder opposition. The number of VSMs in a year did not reach 100 until 2016, and in 2019 still only about 300 companies used a VSM platform for their annual shareholder meetings.<sup>1</sup>

The 2020 proxy season saw a tidal wave of annual meetings held through virtual platforms—almost 2,500—as a direct result of the COVID-19 pandemic and related health concerns that led to quarantines and government-mandated restrictions on large indoor gatherings and travel. By the beginning of March, public companies started to realize their in-person annual meetings were scheduled to take place during what medical experts were projecting would be the most dangerous months of the pandemic: April through June. It was clear that VSM technology would be the safest way most companies could hold their annual meetings on the originally scheduled dates.

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<sup>1</sup> See Appendix B.

Companies quickly retained VSM service providers and started to train key people on how to use the technology. Companies that had already distributed their proxy materials to shareholders had to notify them of the change to VSMs. Other companies built contingent language into their proxy statements about possibly holding a VSM before they were printed and filed. The U.S. Securities and Exchange Commission (“SEC”) provided guidance on how to make these disclosures in compliance with securities regulations. Many state governments had to take special measures to allow companies incorporated under their laws to hold shareholder meetings via remote participation only. (See “Current Legal Landscape” below.)

## Formation of The 2020 Working Group

As the 2020 proxy season gathered steam through May, more companies and investors than ever experienced a VSM for the first time and saw firsthand the pros and cons. Some investors and commentators catalogued and voiced concerns about how VSMs were being conducted.<sup>2</sup> Most of these concerns were not new ones, as a healthy debate over VSMs in the corporate governance community had been ongoing since 2009. In fact, the debate led Broadridge to convene a multi-stakeholder group in 2018 to discuss what should be “best practices” for companies using VSMs.<sup>3</sup> That group, called the Best Practices Committee for Shareowner Participation in Virtual Annual Meetings (the “2018 Committee”), was co-chaired by Anne Sheehan, formerly of the California State Teachers’ Retirement System, and Darla Stuckey of the Society for Corporate Governance, and produced a report entitled “Principles and Best Practices for Virtual Annual Shareowner Meetings” (the “2018 Report”).<sup>4</sup> By the end of the 2020 proxy season, it was clear to the co-chairs of the 2018 Committee that their work should be reviewed and updated based on the experiences and learnings of 2020.

This report is a product of a similar working group of public companies and investors convened in August 2020 by the Rutgers Center for Corporate Law and Governance and co-chaired by Amy Borrus, Executive Director of the Council of Institutional Investors, and Darla Stuckey, CEO of the Society for Corporate Governance (the “2020 Working Group”). The members of the 2020 Working Group and its Steering Committee of corporate governance advisors and service providers are listed in Appendix A. **The aspiration of the 2020 Working Group is for companies, investors, and service providers to conduct VSMs in ways that replicate the in-person annual meeting experience for the shareholder as closely as possible in order to foster effective corporate governance.**

<sup>2</sup> Letter from Council of Institutional Investors, Shareholder Rights Group, Interfaith Center on Corporate Responsibility, Ceres, and US SIF to Jay Clayton, Chairman, and William Hinman, Director of the Division of Corporation Finance, U.S. Securities and Exchange Commission, *Virtual and Hybrid Meetings: Concerns from 2020 Proxy Season* (July 6, 2020).

<sup>3</sup> A working group convened by Broadridge in 2012, The Best Practices Working Group for Online Shareholder Participation in Annual Meetings, had previously addressed certain elements of VSMs in a report entitled, “Guidelines for protecting and enhancing online shareholder participation in annual meetings.”

<sup>4</sup> Best Practices Committee for Shareowner Participation in Virtual Annual Meetings, “Principles and Best Practices for Virtual Annual Shareowner Meetings” (Apr. 18, 2018).

## Scope of This Report

The scope of this Report comprises the conduct during the VSM and the related disclosures made before and after the meeting. It is designed to outline expectations, as well as evolving practices, for VSMs once a company has decided to hold its annual meeting using a VSM platform. It also highlights certain areas of the VSM experience. In this sense, **the Report should be used as a guide for—but not an endorsement of—VSMs.**

There are many factors that each of the over 4,000 publicly listed companies in the U.S. should consider when deciding on the best format for its annual meeting, including available resources, nature of the items of business to be voted on, composition of the shareholder base, historical attendance, level of comfort with new technology, and shareholder appetite. Each company should look at its particular facts and circumstances, evaluate all of its options, and hold its annual meeting in a way that best serves the needs of the company and its shareholders.

A key area of concern raised by shareholders during the 2020 proxy season related to the degree of difficulty of entering a VSM. Beneficial owners faced unexpected hurdles to attend certain VSMs. These difficulties were the result of the limitations and technicalities of the complex system by which equity securities are held and voted in the U.S.—commonly referred to as “proxy plumbing.” The corporate governance community and securities regulators have long debated the workings of the proxy plumbing system, and discussions over the possibility of overhauling all or parts of it are on-going among industry groups.

Given that the selective difficulties with entering VSMs are unfortunate by-products of proxy plumbing, those issues are beyond the scope of this report.<sup>5</sup> However, the 2020 Working Group was in strong agreement that solutions to proxy plumbing-related issues are essential for all shareholders entitled to vote at all VSMs, no matter which service provider “hosts” the meeting. Shareholders must be able to exercise their rights to attend and vote at shareholder meetings on an equal basis to maintain the integrity of corporate governance in the U.S.

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<sup>5</sup> The difficulties beneficial owners had in accessing virtual meetings that were hosted by certain VSM providers in 2020 are being addressed by the End-to-End Vote Confirmation Working Group Subcommittee. This group was convened with the aid of the SEC by industry participants following a Proxy Voting Roundtable held in November 2018. The Subcommittee consists of VSM providers, and representatives from issuers, investors, brokers and banks. Subcommittee members are developing an online solution that will enable VSM hosts to electronically poll Broadridge, Mediant and other agents servicing banks and brokers to validate beneficial owners. Through this new process, issuers will be able to admit beneficial owners who wish to attend the virtual meeting, ask questions and vote. The Subcommittee expects these technical changes to be in place for the 2021 proxy season.

Furthermore, this report is intended to address issues that relate specifically to virtual-only meetings. It does not discuss issues that relate to all shareholder meetings in general, regardless of whether they are in-person, hybrid, or virtual. Nor does it delve into the unique challenges that arise when a shareholder meeting must be held during a pandemic or other public emergency.

## 2020 Legal Landscape

Most states now permit virtual-only or hybrid shareholder meetings. Only five states require in-person meetings, and 45 states and the District of Columbia permit hybrid meetings. Thirty-three states, including Delaware, permit virtual-only meetings. (See Appendix C for a survey of state statutes.)

The landscape for the 2020 proxy season was constantly evolving due to the public health impact of COVID-19. Delaware issued an emergency declaration in April that allowed companies to change scheduled in-person meetings to a virtual-only format without having to re-notice the meetings as long as the companies filed a notice of the change with the SEC and posted a press release on their websites.<sup>6</sup> New York, Massachusetts, and California released similar emergency orders in March suspending requirements associated with the switch to virtual-only meetings.<sup>7</sup> Many other states that prohibited virtual-only meetings followed suit by granting temporary relief from in-person meeting requirements.

The SEC's staff issued limited guidance in March and April 2020 as to how to navigate the disclosure of virtual-only and hybrid shareholder meetings to support the health and well-being of board members, shareholders, and other constituencies.<sup>8</sup> Companies were expected to communicate promptly any change in format from an in-person to a VSM, as well as communicate clear directions on the logistical details of the meeting, such as how shareholders could remotely access, participate in, and vote at the meeting. For issuers that had already mailed proxy statements for in-person meetings, the staff guidance indicated that they could change the format to a virtual-only or hybrid meeting without mailing additional solicitation materials if they (1) issued a press release announcing such change, (2) filed the announcement as definitive additional soliciting material with the SEC, and (3) took all reasonable steps necessary to inform other intermediaries in the proxy process (such as any service provider) and other relevant market participants (such as the applicable stock exchange) of such change. Many companies that had to make a

<sup>6</sup> State of Delaware, Executive Department, *Tenth Modification of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat* (Apr. 6, 2020).

<sup>7</sup> State of New York, *Continuing Temporary Suspension and Modifications of Law Relating to the Disaster Emergency*, Exec. Order No. 202.8 (Mar. 20, 2020); Commonwealth of Massachusetts, *Order Regarding the Conduct of Shareholder Meetings by Public Companies*, COVID-19 Order No. 19 (Mar. 30, 2020); Executive Dep't of State of California, *Executive Order N-40-20* (Mar. 30, 2020).

<sup>8</sup> U.S. Securities and Exchange Commission, *Staff Guidance for Conducting Shareholder Meetings in Light of COVID-19 Concerns* (Updated Apr. 7, 2020).

decision in the early stages of the pandemic decided to notice the meeting again instead of risking the meeting being held on improper notice. Companies that were scheduled to have their meetings in later months were urged by the SEC's staff to evaluate their own circumstances and promptly make a decision on how to proceed. As noted above, several states, including Delaware, issued executive orders granting relief on notice obligations.

## Types of Annual Meetings

### In-Person

***In-Person Only.*** This is the traditional annual meeting of shareholders that takes place at a physical location where registered and beneficial shareholders who are verified as such may attend the meeting and vote in person. Registered holders are also able to examine the list of registered holders at the meeting. A question and answer (“Q&A”) session, while not legally required, is standard practice. Some companies allow non-shareholders to accompany shareholder attendees as “guests,” but guests are not eligible to vote. Practices are mixed on whether guests are allowed to ask questions. Practices are also mixed on whether media is allowed into the meeting; if so, they typically are not allowed to ask questions.

***In-Person with Live Internet Streaming.*** This is the traditional in-person annual meeting with the addition of live Internet streaming (audio-only, or audio with video) for non-attendees to listen/watch the proceedings of the meeting remotely. Shareholders and non-shareholders may access the web streaming through the Internet without any need for verification, but they are **not** counted towards a quorum or able to vote, ask questions (in most cases), or examine the list of registered holders. Some companies only stream the management presentation and formal (*i.e.*, legally required) portions of the meeting, but not the Q&A session.

### Virtual (VSM)

This is an annual meeting that takes place **entirely** over the Internet (audio-only, or audio with video) with no ability to attend in person. Registered and beneficial shareholders are able to attend remotely and vote via a virtual (*i.e.*, online) platform upon being verified. As with the traditional in-person annual meeting, a Q&A session is standard practice, but only verified shareholder attendees are usually able to ask questions before or during the meeting, usually in writing. Most companies allow guests to attend the meeting through the virtual platform, and shareholders who do not wish to attend as verified shareholders may also attend as “guests.” Most companies do not allow guests to ask questions. Regardless of whether or not they are actually a shareholder, anyone attending as a guest will not count towards a quorum, and will not

be able to vote or examine the list of registered shareholders during the meeting as they could if they attended as verified shareholders.

## Hybrid

This is an annual meeting that gives shareholders the option to attend and participate either in person or remotely through a virtual platform. Unlike at in-person meetings with live Internet streaming, all verified shareholders, whether attending in person or remotely, can vote and ask questions during the meeting. Given the additional company resources required to accommodate both in-person and remote shareholder participants simultaneously, hybrid meetings have been rare to date.

Some investors believe that a hybrid meeting may be the optimal format for a shareholder meeting. Prior to the COVID-19 pandemic, these investors made statements and/or established policies indicating that, in the absence of the ability for a shareholder to attend an annual meeting in person, they may cast proxy votes against members of the board nominating committee of a company that holds a VSM.<sup>9</sup>

## Current Views of Shareholders and Companies

### Shareholders

A large and vocal group of institutional shareholders has for many years voiced strong objections to VSMs as adversely impacting their ability to exercise their rights and directly express themselves to boards of directors. The overarching concern of these investors has been that, intentionally or unintentionally, VSMs shield the board and management from shareholder interaction as compared to in-person meetings, potentially undercutting their ability to hold management accountable. For these shareholders, their experiences at VSMs this year confirmed for them that a VSM is a wholly inadequate replacement for an in-person meeting, with few opportunities for the interactivity and discussion they expect. Many of these shareholders expressed that their long-held concerns played out, most notably:

- General sense that companies had much tighter control over the structure and flow of the Q&A sessions than at in-person meetings, including a feeling that some companies were “cherry picking” innocuous questions and favorable comments over difficult questions and critiques.

<sup>9</sup> E.g., New York State Common Retirement Fund, *Environmental, Social & Governance Principals and Proxy Voting Guidelines*, page 12 (Feb. 2020) (“The Fund believes a hybrid annual shareholder meeting, whereby virtual or remote participation is an alternative to attending the meeting in-person is a governance best practice... The Fund will withhold support from governance committee members when a company conducts a virtual-only meeting...”); The Office of the New York City Comptroller, *Corporate Governance Principles and Proxy Voting Guidelines*, §3.14 (Feb. 2019) (“... Companies should hold shareowner meetings by remote communication (so-called ‘virtual’ meetings) only as a supplement to traditional in-person shareowner meetings, not as a substitute... The Systems may oppose all incumbent directors of a nominating/governance committee subject to election at a ‘virtual only’ annual meeting.”)



- Apprehension created by a lack of transparency about certain companies' use of discretion to combine or paraphrase similar questions or reword questions.
- Suspicion that some questions asked and answered during the Q&A sessions at certain companies were generated by the companies themselves, as opposed to verified shareholders, with rehearsed answers from the meeting chairs as a way to avoid difficult questions and fill the time allotted for Q&A.
- Inability for shareholders to ask follow-up questions the way they could at in-person meetings.
- Loss of opportunities for shareholders to interact with eye contact, both formally and informally, with board members, company executives, and other shareholders.

This left many of these shareholders feeling that the role of shareholder participation in annual meetings had been either inadvertently overlooked or intentionally marginalized.

As in prior years when most annual meetings were in-person, shareholders had a wide range of experiences at VSMs in 2020, from meetings that were called to order and adjourned in under ten minutes to ones that lasted several hours with hundreds of participants. However, the quick transition that companies had to make during the pandemic to hold VSMs led most to simplify their meetings to the extent possible to ensure successful execution in the midst of unprecedented circumstances—particularly fear of technological problems derailing the meeting. The transition also created confusion and unanticipated challenges for shareholders to attend many of the VSMs.

At some VSMs, shareholders wishing to ask questions were not given clear instructions on how to submit their questions during the meeting. Unlike at in-person meetings, questions had to be submitted in writing and were then read (or paraphrased) by management.

To be sure, some shareholders had a more favorable view of VSMs this year. They appreciated the ability to attend, present proposals and ask questions at many more meetings, and to ask more questions than they typically are able to ask at in-person meetings (where most companies limit the number questions from any one shareholder). However, despite these positives, many shareholders expressed that the VSM continues to be an inadequate replacement for an in-person meeting, as it simply cannot replicate the in-person experience from the shareholder's point of view.<sup>10</sup>

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<sup>10</sup> Letter from Council of Institutional Investors, *et al.*, to SEC.

## **Shareholder Proponents**

Overall, shareholder proponents reported that they were able to present their proposals without difficulty and described companies as treating them with professionalism and respect. Many companies gave the investors a choice as to how they would like their proposal presented; and in some cases, the companies had written statements or pre-recorded statements as “belts and suspenders” in case a proponent’s telephone line or Internet connection was dropped.

However, in at least one instance, shareholder proponents were not afforded the ability to present the proposals in their own voice; instead they had to submit written statements that company representatives read aloud during the meeting.

## **Companies**

Historically, companies have expressed few objections to the concept of the VSM, even though the overwhelming majority of them preferred to hold their annual meetings in person. Many saw the VSM as potentially an attractive option should the situation arise that necessitated such a format. Prior to the COVID-19 pandemic, those that did hold VSMs cited the “environmentally friendly” aspects of online events, greater convenience for an expanded pool of shareholders to participate in corporate governance, and uniform and more consistent experience for all attendees.

In general, companies using VSM platforms for the first time in 2020 reported a positive experience. While the risk of technological failure was real, glitches were minimal while shareholder attendance increased. The associated costs were also generally lower in comparison to in-person and hybrid meetings that require procurement of physical venues, security, catering, and other accommodations. But some companies that have historically held their annual meetings at their own headquarters with few attendees reported that the cost for them to hold a VSM was greater. Some governance professionals believed that questions submitted by shareholders at VSMs were more substantive and of “higher quality” than at in-person meetings.

The downsides to the VSM noted by companies primarily related to the increased coordination required of the company representatives running the meeting and managing the Q&A sessions. Those running the meeting had to communicate with each other during the meeting from different locations—attributable solely to the COVID-19 restrictions (not VSM technology). Being in different locations led directors and management to use one or more communication platforms, such as text message and online collaboration tools, in parallel with the VSM platform to interface with each other during the VSM since they were not in the same room. Not all were adept at using each of these digital platforms or multitasking during the

meeting, and the learning curve was steep. Concerns around coordination required additional time to prepare and rehearse. Companies with meetings that included shareholder proposals also had to coordinate in advance of and during the meeting with these additional remote participants who had speaking roles, but were external to the company.

While overall the average number of questions that companies received at annual meetings in 2020 was not dramatically different than in previous years,<sup>11</sup> companies had to adjust to a new way of receiving questions, as VSM platforms generally allowed shareholders to submit questions in writing throughout (and in many instances before) the meeting. In addition, any shareholder was able to submit multiple questions, in many instances anonymously. Companies that have historically held in-person annual meetings had been accustomed to calling on shareholders in the audience who raised their hands or approached a standing microphone, and companies usually limited the number of questions each shareholder could ask.

## Applying the 2018 Report to 2020

Companies for the most part followed the spirit of the principles established by the 2018 Committee during the 2020 proxy season. The 2020 Working Group agreed that the guiding principles from the 2018 Report remain generally accepted across key stakeholder groups and thus remain valid for the immediate future:

- Broad investor participation in annual meetings should be valued and encouraged.
- Shareholder meetings should promote equitable and equal treatment of investor participants.
- Opportunities for meaningful engagement between investors and boards should be provided.
- Issuers should communicate the benefits of a VSM to shareholders.
- VSMS should be used as a way to provide meaningful open dialogue between shareholders and companies.<sup>12</sup>

Regarding the “Best Practices” outlined in the 2018 Report, the 2020 Working Group found that after observing almost 2,500 VSMS conducted in one proxy season, a number of practices that were considered best practices in 2018 became standard practices in 2020. The 2020 Working Group also determined that some emerging practices that were not widely adopted by companies in 2020 should be more strongly encouraged for VSMS in 2021 and beyond in hopes that they will become standard practices. The 2020 Working Group understood that the evolution of standard practices will be driven by the continual

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<sup>11</sup> See Appendix B.

<sup>12</sup> *2018 Report*, p. 4.

enhancement and innovation in VSM technologies and lower costs, as well as the learning curve for companies and their shareholders.

## Trends in VSM Practices

There were numerous VSM practices during the 2020 proxy season that shareholders will likely expect companies to treat as standard going forward, absent difficult circumstances. There were other practices that appeared to be evolving in ways that indicate they will likely become standard in the relatively near-term, especially as VSM technology continues to improve and become more affordable for companies of all sizes. This section of the 2020 Working Group Report combines these practices in a way that provides companies specific, practical, and usable guidance on how to conduct a VSM, understanding that not all companies will be able to adopt all of these practices at once. In this sense, this set of practices taken as a whole can be seen as aspirational for now.

## Disclosure

### ***Instructions on How Shareholders Can Attend and Participate***

Companies have a responsibility to provide clear and comprehensive instructions in proxy statements and related disclosure on how their shareholders can participate in their shareholder meetings. Therefore, it is incumbent upon the company holding a VSM to:

- Provide shareholders with complete, detailed instructions on how they can attend the meeting and vote prior to and at the meeting.
- Write these instructions in “plain English” with the individual retail shareholder in mind.
- Place these instructions in a prominent and easily located place in the proxy statement for the meeting.
- Clearly distinguish and explain the different procedures for shareholders of record and shareholders holding shares in “street name” (*i.e.*, beneficial holders), if applicable.
- Highlight whether and why a shareholder must obtain and/or provide additional information (*e.g.*, separate control number, legal proxy) in advance of the meeting and how to do so.
- Indicate whether attendance is limited to shareholders or open to both shareholders and guests.

### ***Instruction on How Shareholders Can Submit Questions***

While it is not explicitly a legal right, shareholders expect to be able to ask questions at shareholder meetings, and companies have long included time for questions from shareholders at their annual

meetings. Companies frequently have meeting rules distributed at in-person meetings, and this should be no different for VSMs. Thus, prior to their VSMs, companies should:

- Provide instructions on how and when shareholders will be able to ask questions at the meeting.
- Make it clear that a shareholder must attend as a verified shareholder (*i.e.*, not as a guest) to be eligible to ask questions (and vote) at the meeting.
- Explain any requirements or limitations on asking questions at the meeting (*e.g.*, time allotted for the Q&A session, time allotted per question, number of questions allowed for each shareholder, self-identification) and how the company may use discretion when selecting questions to answer and paraphrase questions for greater clarity.
- Explain whether and how the company will respond to any questions after the meeting that it was not able to answer at the meeting.
- If the company chooses to solicit questions in advance, provide instructions on how shareholders can ask questions in advance of the meeting.

### ***Reasons for Using a Virtual-Only Format***

As VSMs have not been the norm and have been used very infrequently before the COVID-19 pandemic, shareholders should receive an explanation of why the company has chosen this format for the particular meeting. The company may have different (and multiple) reasons for holding a VSM in a particular year. Thus, companies using a VSM format should:

- Explain in the proxy materials why the company has elected to hold the meeting using a VSM format instead of in-person.

## **Preparation**

### ***Company Training and Rehearsals***

As with all planned events, it is important for those directly involved with the VSM to execute their duties, know what to expect, and anticipate and work out as many potential technical and communications difficulties as possible well in advance. To that end, the company should:

- Ensure adequate training on the VSM platform for any board members, company representatives, and contractors who will be actively working on or participating in the meeting.
- Ensure technical support staff is present during the meeting in case technical challenges arise.
- Rehearse the entire meeting with the individuals who will be actively working on the meeting.

- Ensure the adequacy and functionality of all means for the individuals who will be actively working on the meeting to communicate with each other during the meeting.

### ***Communication with Shareholder Proponents***

Preparation for any shareholder meeting should include direct communication with any shareholders that have proposals to be voted on at the meeting. For VSMS, it is important that shareholder proponents are given access to the meeting for them to formally present their proposals, be heard clearly and uninterrupted by all attendees, and be fully able to participate in any Q&A session. To that end, companies should:

- Coordinate with proponents in advance of the meeting to discuss the logistics of presenting their proposals and subsequently asking questions.
- Provide proponents with a dedicated phone or video connection to present their proposals in real time at the meeting. (Test the connection on both sides in advance for any background noise, lags, or glitches.)
- Give proponents the option to provide a pre-recorded statement that the company will play, or a written statement for management to read aloud, at the meeting in lieu of virtual attendance.
- Ensure proponents are aware of the meeting agenda, when their proposals will be introduced, how they will know when to speak, any time or length limitation for their statements, and other instructions needed for proponents to present.
- Discuss contingency plans in the event the proponent faces technical difficulties attending the meeting (such as providing a pre-recorded or written statement to the company as a backup).

It is also important, and in their best interest, for ***shareholder proponents*** to make themselves available and be cooperative with advance preparation requests.

### ***Allowing Shareholders to Test Internet Connectivity***

As with any webcast or virtual meeting, there may be instances where attendees are not able to access the event easily due to inadequate technical capabilities that could have been resolved had they been tested in advance. To that end, companies should:

- Provide a simple way for attendees to check the online system compatibility requirements (e.g., operating system, web browser, and Internet connection strength) to connect to the VSM and minimize the likelihood of connection issues well in advance of the meeting.

- Allow attendees to login at least 15 minutes before the scheduled start time to resolve connection issues.

## VSM Platform

### **Audio or Video Format**

Most VSMs thus far have been audio-only,<sup>13</sup> where the meeting chair and other company participants and shareholder proponents can be heard, but not seen, by attendees. A number of companies have been conducting their VSMs with both audio and video, where the meeting chair and company participants are shown live and in real time from a studio or meeting room, replicating how an in-person meeting would look.<sup>14</sup> However, the pandemic caused most of these companies to also conduct their VSMs using only audio.

The hope of investors in the 2020 Working Group is that an increasing number of VSMs will use video (absent pandemic-like restrictions). The companies' view is that video can be considered only as production costs and risks of complications decrease, production standards change, and VSM platforms enable multiple people to appear on the platform by video from different locations. To maximize the effectiveness of remote communication, companies should:

- Weigh the costs and benefits of using video versus audio-only technology for the VSM with the aspiration to use video in some capacity.

### **Voting**

Voting is a shareholder's most important and powerful right. To that end, companies must:

- Provide a prominently visible and simple mechanism on the main VSM page for shareholders to vote their shares (and change their votes if desired) during the time the polls are open.
- Confirm that the VSM service provider is able to maintain the integrity of, and the inspector of election is able to certify, the votes cast at the meeting.

### **Questions**

At an in-person meeting, questions are usually not solicited until the Q&A session begins, which is typically after consideration of the official items of business and any management presentations.<sup>15</sup> During an

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<sup>13</sup> The percentage of VSMs in audio-only format was 88% in 2018, 97% in 2019, and 98% in 2020. See Appendix B to this report.

<sup>14</sup> E.g., Starbucks Corporation, Mar. 18, 2020.

<sup>15</sup> Note that many companies will solicit and consider questions on the items of business, including shareholder proposals, after each item is presented.

in-person Q&A session, shareholders asking questions are recognized from the floor by the meeting chair and are seen and heard by the company and the other attendees. Most companies require shareholders to identify themselves before speaking.

For VSMs, the process for submitting questions is very different. VSM platforms usually provide a space for shareholders to type and submit questions during the meeting, and the company will collect those questions and then read and address them during the Q&A session (as time permits). To replicate as closely as possible what an in-person Q&A session accomplishes, companies should:

- Provide a prominently visible and simple mechanism on the main VSM page for shareholders to submit questions to the company throughout the meeting.
- Clearly instruct shareholders that when submitting questions, they must identify themselves and provide contact information in case the company needs to address their question after the meeting.
- Request that the VSM service provider make all questions visible to the company verbatim and in real time.<sup>16</sup>
- Request that the VSM service provider authenticate the identity of the shareholder asking the question

(Also see “Proceedings of the Meeting—Q&A Session” below.)

### ***Posted Content***

It is essential that shareholders have all material information needed to make a voting decision. Also, most states require companies to make the list of shareholders of record entitled to vote available to shareholders of record at the meeting for inspection during the meeting.<sup>17</sup>

- Post complete and downloadable copies of the meeting agenda, rules of order, and all proxy materials for the meeting in a prominent location on the main VSM page.
- Provide a clear way for registered shareholders in attendance to be able to examine the list of registered shareholders entitled to vote, if required by and in accordance with the laws of the company’s jurisdiction of incorporation.

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<sup>16</sup> For the 2020 proxy season, most VSM service providers gave the company the ability to view all questions as they were submitted, verbatim and in real-time. Service providers that were not able to provide this in 2020 report that they will be able to do so for the 2021 proxy season.

<sup>17</sup> *E.g.*, Delaware General Corporation Law, §219(a); Model Business Corporation Act, §7.20(c).



## Assistance for Attendees

As with any webcast or virtual meeting, there may be instances where attendees will face technical difficulties and seek immediate assistance during the meeting. That may be especially true for individual retail shareholders who have never attended an annual meeting, whether in-person or virtually, or who are not proficient with the technology of virtual meetings. Companies using a VSM platform should:

- Provide information in advance of the meeting (*e.g.*, in the proxy statement) for how shareholders can contact the company or the VSM service provider with questions about attending the meeting.
- Provide a visible mechanism on each page of the VSM platform for attendees to contact a live operator for assistance via phone, online “chat” function, or other form of real-time communication.

## Proceedings of the Meeting

The formal legal portion of a VSM should be conducted in the same manner as any in-person shareholder meeting, with certain modifications or enhancements described below to make the virtual experience for the shareholder as close as possible to an in-person shareholder meeting.

### **Announcements**

At any large meeting, it is important to provide clear guidance on how the meeting will be conducted and instructions for how to participate. This may be even more important at virtual events. In addition to the announcements traditionally or required to be made at annual meetings,<sup>18</sup> companies should announce immediately after the meeting is called to order:

- Instructions on how to vote during the meeting through the VSM site;
- Availability of proxy materials on the VSM site;
- Instructions on how and when to submit questions during the meeting and how and when they will be answered (including the need for questioners to provide their name and contact information);<sup>19</sup> and
- Information for attendees requiring technical or other assistance.

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<sup>18</sup> These would include, but not be limited to, meeting agenda, timing of the opening and closing of the polls, names of the director nominees in attendance (and reasons for any absences), whether representatives of the company's independent auditors and inspector of election are in attendance, and quorum.

<sup>19</sup> Most VSM service providers have the capability to allow questioners to self-identify when submitting a question. Based on the company's preference, the functions can be set to allow questioner to self-identify. Any service provider that did not provide such feature will make it available going forward.

## **Shareholder Proposals**

Filing shareholder proposals is an important way for shareholders to express their concerns to the board and to other shareholders. Shareholder votes on these proposals measure the level of support for the board to act in accordance with prevailing shareholder sentiment on key issues. To ensure that shareholder proponents are able to present their proposals properly at shareholder meetings, companies should:

- Encourage the proponent to connect to the meeting through a dedicated line before the meeting begins.
- Be clear in instructing the proponent when to begin his/her remarks, how much time is allotted to him/her and what will happen when the allotted time is over.
- Ensure that the proponent can clearly hear the chair and be heard by the attendees throughout his/her remarks (to the extent it is within the company's control).
- Ensure that any pre-recorded or written remarks provided by the proponent in lieu of attendance are made audible with the same sound quality as the rest of the meeting (to the extent it is within the company's control).

In addition, it is important that **shareholder proponents** adhere to the rules of order for the meeting and interact with company representatives in a cooperative and constructive manner. As most companies have not conducted many VSMs, proponents should be patient and flexible if legitimate technical issues arise.

## **Q&A Session**

For many shareholders, a company's annual meeting is the only opportunity they will have to address questions and comments to the company's board of directors and shareholders, directly and in front of all of the company's shareholders in attendance. In that sense, the annual meeting is an important event for shareholders to engage directly with boards and management, as well as other shareholders.<sup>20</sup> To this end, companies should:

- Allocate ample time on the agenda for Q&A based on the number of questions submitted in advance and reasonably anticipated to be received during the meeting.
- Explain how much time will be dedicated to the Q&A session and how the company will handle questions it may not be able to get to before time expires.

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<sup>20</sup> See, *The Shareholder Services Optimizer*, Vol. 26, No. 3 (Third Quarter 2020): "Q&A period [of an annual shareholder meeting] is, by far, the most valuable contributor to good corporate governance there is: It forces senior management to elicit info from the company at large, and to bone up on important issues—and on potentially important developing issues as well."

- Explain in what order the company will be reciting and answering the questions submitted.
- Note whether the company will take multiple questions from a single shareholder, and if so, in what order.
- Identify each questioner before reciting his/her question.
- Recite, to the best of its ability, each question verbatim as submitted by the shareholder, rewording or paraphrasing the shareholder's submission only when necessary to make it comprehensible.
- If answering once for multiple questions on the same topic, indicate that other shareholders submitted the same or a substantially similar question.
- Have members of the executive team and board committee chairs, in addition to the board chair (or lead director) and CEO, in attendance with the ability to audibly answer questions during the Q&A session as appropriate.
- Address all, or substantially, all questions received in advance of the meeting (if the company elects to solicit questions in advance).

In addition, ***shareholders asking questions*** should comport themselves with due respect for the meeting and other shareholders wishing to ask questions. In that regard, shareholders posing questions should:

- Follow the rules of order for the meeting and refrain from disruptive behavior, verbal abuse, and personal attacks unrelated to the company or board members, executives or other employees, or other shareholders.
- Keep questions and comments germane to the company and not raise personal grievances.

## After the Meeting

After the meeting (within a reasonable period of time), the company should:

- Post on its website a recording of the entire meeting (including the Q&A session) for public viewing for a specified, extended period of time.

## Optional and Emerging Practices

In addition to the standard and evolving practices described above, it is worth noting certain other practices that some companies used to enhance their VSMs. Companies should be encouraged to

experiment with innovative practices and different types of digital communication to enhance the VSM experience for their shareholders.

- Posting all VSM instructions and related content, including what can be found in the proxy materials, on the company's website at the same time or promptly after the company files the definitive proxy materials with the SEC.<sup>21</sup>
- Posting all questions received both before and during the meeting, and corresponding answers, on the company's website within a reasonable period of time after the meeting.<sup>22</sup>
- Posting a transcript of the full meeting (including Q&A session) on the company's website within a reasonable period of time after the meeting.<sup>23</sup>
- Providing a live video feed of members of management<sup>24</sup> and the board.
- Allowing shareholders to call in to ask questions and be heard in real time.<sup>25</sup>
- Extending the time of the meeting to answer questions submitted.<sup>26</sup>
- Providing closed captioning or signing for the hearing impaired.<sup>27</sup>
- Providing real-time translations into multiple languages.<sup>28</sup>
- Giving shareholders the ability to see all appropriate questions submitted in advance of the meeting and in real time and track prioritization of the questions in the queue throughout the meeting.<sup>29</sup>
- Giving shareholders the ability to indicate their level of interest in particular questions shown in the queue.<sup>30</sup>
- Allowing shareholder proponents and questioners to appear on video.<sup>31</sup>

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<sup>21</sup> *E.g.*, Exxon Mobil Corporation, May 27, 2020.

<sup>22</sup> *E.g.*, Intel Corporation, May 14, 2020; Bristol-Myers Squibb Company, May 4, 2020; General Motors Company, June 16, 2020.

<sup>23</sup> *E.g.*, Hewlett Packard Enterprise Company, Apr. 1, 2020.

<sup>24</sup> *E.g.*, Starbucks Corporation.

<sup>25</sup> *E.g.*, General Motors; The Procter & Gamble Company, Oct. 13, 2020. All VSM service providers allow the option for shareholders to ask questions orally, in real time. Some providers offer an operator-assisted telephone line at additional costs, while other providers include a "raise hand" option, which allows issuers to unmute specific shareholder lines.

<sup>26</sup> *E.g.*, Citigroup, Inc., Apr. 21, 2020. Additional fees may be incurred by the company, depending on how much time is added.

<sup>27</sup> *E.g.*, Alphabet Inc., June 3, 2020.

<sup>28</sup> *E.g.*, Microsoft Corporation, Dec. 2, 2020. Microsoft was able to provide real-time translation in several languages via a webcast that was accessible on its investor relations website, but not integrated into the VSM platform.

<sup>29</sup> *E.g.*, Axon Enterprise Inc., May 29, 2020; Tesla, Inc., Sep. 22, 2020. Axon and Tesla were each able to provide this through a separate online platform that ran simultaneously with the meeting, but not integrated into the VSM platform.

<sup>30</sup> *E.g.*, Axon Enterprises; Tesla.

<sup>31</sup> The option to allow video participation is currently available from all major VSM service providers.

## The Future of VSMs

All corporations are required by law to hold an annual shareholder meeting, guaranteeing shareholders at least this one occasion each year to exercise their rights and actively participate in the governance of corporations. Traditionally held in person, annual meetings also give shareholders opportunities to make connections and build relationships with board members, company executives, and other shareholders. Taking away the ability to meet in person effectively eliminates these additional benefits.

Given the likely trend toward increased use of VSMs, the question is whether the benefits of in-person shareholder meetings can be replicated at VSMs or replaced with something of value to both companies and shareholders. That value would likely derive from the opportunity that a VSM presents for real-time engagement between a company and its shareholders, as well as among shareholders, on a scale not limited by physical presence. With that kind of reach, the VSM could evolve into an important part of a company's overall engagement efforts, creating an incentive for the company to provide more substantive content on a broader set of subjects of importance to its shareholders, including environmental, social and governance (“ESG”), sustainability, and corporate citizenship.

Thus far, companies have been able to realize the practical value of VSMs, as was most evident at the beginning of the COVID-19 pandemic. On the other hand, while many shareholders appreciate the practical value, they believe that VSMs thus far have largely discouraged the kind of interactivity that they expect to experience at shareholder meetings. Both technology limitations and company choices factor into this.

As the technology advances, VSM platforms will likely provide more tools for a truly interactive experience for boards, management teams, and shareholders. But technology alone will not reinvent annual meetings in ways that companies and shareholders find valuable. The value will be realized only if companies are willing to allocate resources to make their VSMs substantive and mutually beneficial experiences.

In an era when more companies and shareholders are making concerted efforts to engage with each other—including board members meeting with shareholders—the VSM platform can and should be used to build on that trend, not as a tool to discourage or thwart shareholder involvement in corporate governance. Part of that will involve companies both keeping current with standard practices and aspiring to practices that shareholders will likely expect from companies as they become more accessible. The 2020 Working Group has produced this report to help companies that choose to use VSMs identify and implement these practices.

# Appendix A

## Members of the 2020 Working Group and Steering Committee

### Co-Chairs

Amy Borrus, Council of Institutional Investors

Darla Stuckey, Society for Corporate Governance

### Facilitator

Douglas K. Chia, Rutgers Center for Corporate Law and Governance

### Legal Advisor

Steve Haas, Hunton Andrews Kurth LLP

### Working Group

Donna Anderson, T. Rowe Price

Stacy Anderson, Microsoft Corporation

Lisa Bond-Holland, South Jersey Industries, Inc.

Kevin M. Coleman, Regions Bank

Jennifer Coulson, British Columbia Investment Management Corporation (BCI)

Matt DiGuiseppe, State Street Global Advisors

Michael Garland, Office of the New York City Comptroller

Irving Gomez, Intel Corporation

Keir Gumbs, Uber Technologies

Rick Hansen, General Motors Company

Gregg Lampf, Ciena Corporation

Philip Larrieu, California State Teachers' Retirement System

James McRitchie, CorpGov.net

Brandon Rees, AFL-CIO

Rajesh Sharma, Apache Corporation

Pat Zerega, Mercy Investment Services, Inc.

### Steering Committee

Joe Caruso, Alliance Advisors

Paul Conn, Computershare

Dorothy Flynn, Broadridge Financial Solutions

Carl Hagberg, Carl T. Hagberg and Associates

Todd May, EQ by Equiniti

Sherry Moreland, Mediant Communications

Anne Sheehan, SEC, Investor Advisory Committee

Tim Smith, Boston Trust Walden

# Appendix B

## Key 2018-2020 Statistics<sup>(a)</sup>

<b>Virtual Shareholder Meetings (VSMs)</b>	<b>2018</b>	<b>2019</b>	<b>2020<sup>(b)</sup></b>
Total Number of Virtual-Only Shareholder Meetings (VSMs)	266	318	2,367
Total Number of Hybrid Shareholder Meetings	28	25	30
Percentage of VSMs in Audio-Only Format	88%	97%	98%
Average VSM Duration	00:17	00:15	00:20 <sup>(c)</sup>
Average VSM Attendance (Shareholders and Guests)	20	19	48 <sup>(d)</sup>
Percentage of VSMs Allowing Guest Attendance	90%	90%	90%
Average Number of Shareholders Voting at VSM	1	1	3 <sup>(e)</sup>
Percentage of VSMs Allowing Questions to be Submitted During the Meeting	95%	96%	97%
Average Number of Questions Submitted at VSM	2	1	5 <sup>(f)</sup>
Number of VSMs Allowing Questions to Come In by Phone During the Meeting	3%	<3%	<1%

<sup>(a)</sup> Based on data provided by Alliance Advisors, Broadridge, Computershare, Equinity, and Mediant, for U.S. companies only.

<sup>(b)</sup> Based on meetings through June 30, 2020.

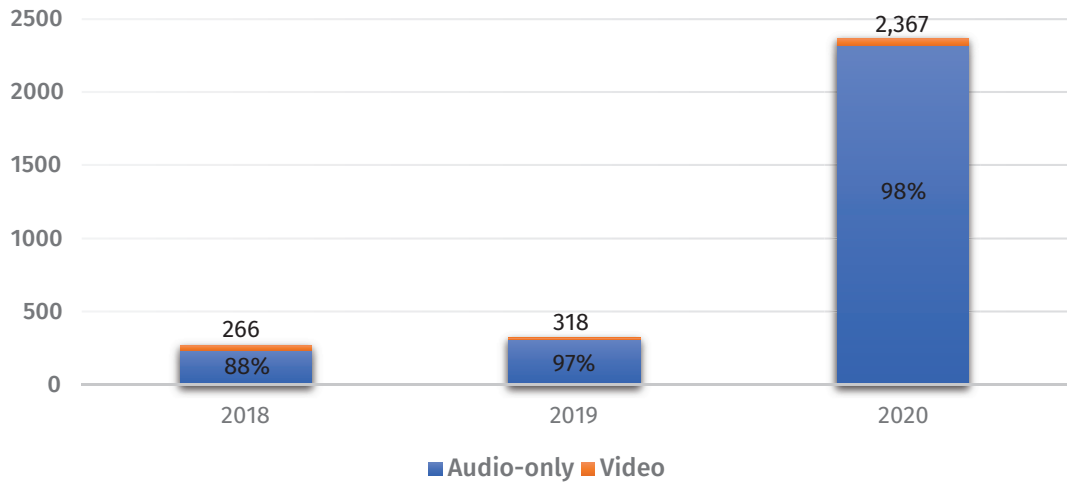
<sup>(c)</sup> Longest was 2:30.

<sup>(d)</sup> Highest was 1,000.

<sup>(e)</sup> Highest was 178.

<sup>(f)</sup> Highest was 316.

### Total Number of VIRTUAL-ONLY SHAREHOLDER MEETINGS





## Appendix C

### Background Information About Current State and Federal Rules Regarding Virtual and Hybrid Meetings

The following is a brief background on state and federal laws relating to virtual participation in shareholder meetings. It is important to note that the state laws apply only to (1) hybrid meetings, meaning shareholders who participate remotely can vote and are counted towards a quorum, and (2) virtual-only meetings. The state statutes governing remote participation by shareholders do not apply to in-person meetings that are made accessible electronically, but do not allow remote attendees to vote their shares or include them for quorum purposes.

#### Delaware Law

The Delaware General Corporation Law (DGCL) governs corporations incorporated in the state of Delaware, which represents over 55 percent of U.S. publicly traded corporations and over 65 percent of the Fortune 500. From a legal perspective, the primary purpose of the annual meeting is to elect directors and take action on management or shareholder proposals. In 2000, the Delaware legislature adopted amendments to Section 211 of the DGCL to allow companies to hold virtual-only and hybrid shareholder meetings in an effort to keep Delaware law current with emerging technological advances and recognize the importance of annual meetings in the corporate governance process.

Specifically, under Section 211 of the DGCL, a board, if authorized by its charter or bylaws, may determine the place of a meeting of shareholders, or, in its sole discretion, determine that the meeting should be held solely by means of remote communication. In addition, Section 211 provides that the board can permit shareholders to use the Internet or another form of “remote communication” to (1) participate, (2) be deemed present and (3) vote at an annual shareholder meeting if the following three conditions are met:

- The company takes reasonable measures to verify that each person deemed present and permitted to vote at the meeting is a shareholder or the holder of a valid proxy from a company shareholder;
- The company takes reasonable measures to provide such shareholders and proxy holders a reasonable opportunity to participate in the meeting—including an opportunity to read or hear the proceedings as they happen substantially and concurrently with such proceedings—and to vote on matters submitted to the shareholders; and
- The company maintains a record of votes and other actions taken at the meeting.

## Other States

Many states, like Delaware, permit virtual-only and hybrid shareholder meetings. Additionally, other states allow the practice in theory, but include restrictions that make it difficult, if not unrealistic, to conduct a virtual-only shareholder meeting. Some states do not permit companies incorporated in those states to hold virtual-only shareholder meetings, but do permit hybrid meetings. Lastly, some states require in-person shareholder meetings and do not permit virtual-only or hybrid meetings. Specifically, the laws of:

- 33 states, including Delaware, Maryland, Ohio, Pennsylvania, Virginia, and Texas, allow virtual-only shareholder meetings. However, some states, such as California, while allowing virtual-only shareholder meetings, may impose conditions that make them impractical or unrealistic (*e.g.*, California requires unrevoked shareholder consent to hold a virtual-only meeting).
- 46 states, including New Jersey, Illinois, and Connecticut, as well as the District of Columbia, permit remote participation in such meetings via the Internet (*i.e.*, a hybrid meeting).
- 13 of the 46 states that permit hybrid meetings, including New York and New Jersey, still require a physical meeting location (*i.e.*, hybrid meetings are permitted, but not virtual-only meetings).
- 5 states, including Georgia, require a physical meeting location and do not permit virtual-only or hybrid shareholder meetings.

Please see the list below regarding states' restrictions on virtual-only shareholder meetings.

In response to the COVID-19 pandemic, almost all of the states that prohibited virtual-only meetings, including New York and Georgia, granted issuers temporary relief through executive orders or emergency legislation to allow virtual-only meetings. Some of those measures remain in effect, while others have expired.

Most states that allow virtual participation in shareholder meetings impose conditions on such participation that are substantially similar to the requirements of Section 211 of the DGCL.

In addition to these conditions, a company that intends to host a virtual-only shareholder meeting generally must make its shareholder list available for the examination by any shareholder during the meeting on a reasonably accessible virtual network.

## Federal Law and Listing Standards

Federal securities laws are largely silent on the conduct of the annual meeting, other than through the proxy solicitation rules. The NYSE and NASDAQ require listed companies to hold annual meetings, with NASDAQ requiring companies to afford shareholders an opportunity to discuss company affairs with management. The corporate codes of each state and the governing instruments of each company also provide guidelines for the conduct of annual meetings of shareholders.

In connection with the COVID-19 pandemic, the staff of the Securities and Exchange Commission issued guidance to issuers holding virtual-only or hybrid meetings.<sup>1</sup> The guidance stated that the staff “expects the issuer to notify its shareholders, intermediaries in the proxy process, and other market participants of such plans in a timely manner and disclose clear directions as to the logistical details of the ‘virtual’ or ‘hybrid’ meeting, including how shareholders can remotely access, participate in, and vote at such meeting.” With respect to shareholder proposals submitted pursuant to Rule 14a-8 of the Securities Exchange Act of 1934, the guidance “encourages issuers, to the extent feasible under state law, to provide shareholder proponents or their representatives with the ability to present their proposals through alternative means, such as by phone.”

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<sup>1</sup> U.S. Securities and Exchange Commission, *Staff Guidance for Conducting Shareholder Meetings in Light of COVID-19 Concerns* (updated April 7, 2020), available at <https://www.sec.gov/ocr/staff-guidance-conducting-annual-meetings-light-covid-19-concerns>.

## Survey of Virtual Annual Meeting Statutes

State	Annual Meeting Statute	Virtual-Only Allowed?	Hybrid Allowed?	In-Person Only?
<b>Alabama</b>	Ala. Code § 10A-2A-7.09	Y	Y	N
<b>Alaska</b>	Alaska Stat. Ann. § 10.06.405	N*	N	Y*
<b>Arizona</b>	Ariz. Rev. Stat. Ann. § 10-708	Y	Y	N
<b>Arkansas</b>	Ark. Code Ann. § 4-26-701	N*	N	Y*
<b>California</b>	Cal. Corp. Code § 600	Y**	Y	N**
<b>Colorado</b>	Colo. Rev. Stat. Ann. § 7-107-108	Y	Y	N
<b>Connecticut</b>	Conn. Gen. Stat. Ann. § 33-703	N*	Y	N
<b>Delaware</b>	Del. Code Ann. tit. 8, § 211	Y	Y	N
<b>District of Columbia</b>	D.C. Code §§ 29-305.01, 305.09	N	Y	N
<b>Florida</b>	Fla. Stat. Ann. § 607.0709	Y	Y	N
<b>Georgia</b>	Ga. Code Ann. § 14-2-701	N*	N	Y*
<b>Hawaii</b>	Haw. Rev. Stat. Ann. § 414-121	Y	Y	N
<b>Idaho</b>	Idaho Code Ann. § 30-29-709	N	Y	N
<b>Illinois</b>	805 Ill. Comp. Stat. Ann. 5/7.05	N	Y	N
<b>Indiana</b>	Ind. Code Ann. § 23-1-29-1	Y	Y	N
<b>Iowa</b>	Iowa Code Ann. § 490.709	N*	Y	N
<b>Kansas</b>	Kan. Stat. Ann. § 17-6501	Y	Y	N
<b>Kentucky</b>	Ky. Rev. Stat. Ann. § 271B.7-080	Y	Y	N
<b>Louisiana</b>	La. Stat. Ann. § 12:1-709	Y	Y	N
<b>Maine</b>	Me. Rev. Stat. Ann. tit. 13, § 709	N	Y	N
<b>Maryland</b>	Md. Code Ann. Corps. & Ass'ns §§ 2-502.1, 2-503	Y	Y	N

State	Annual Meeting Statute	Virtual-Only Allowed?	Hybrid Allowed?	In-Person Only?
<b>Massachusetts</b>	Mass. Gen. Laws Ann. ch. 156D, § 7.08	Y**	Y	N**
<b>Michigan</b>	Mich. Comp. Laws Ann. § 450.1405	Y	Y	N
<b>Minnesota</b>	Minn. Stat. Ann. § 302A.436	Y	Y	N
<b>Mississippi</b>	Miss. Code Ann. § 79-4-7.09	N*	Y	N
<b>Missouri</b>	Mo. Rev. Stat. § 351.225	Y	Y	N
<b>Montana</b>	Mont. Code Ann. § 35-14-709	N	Y	N
<b>Nebraska</b>	Neb. Rev. Stat. § 21-261	N	Y	N
<b>Nevada</b>	Nev. Rev. Stat. § 78.320	Y	Y	N
<b>New Hampshire</b>	N.H. Rev. Stat. Ann. § 293-A:7.09	N	Y	N
<b>New Jersey</b>	N.J. Stat. Ann. § 14A:5-1	N*	Y	N
<b>New Mexico</b>	N.M. Stat. Ann. § 53-11-28	N*	N	Y*
<b>New York</b>	N.Y. Bus. Corp. Law § 602	N*	Y	N
<b>North Carolina</b>	N.C. Gen. Stat. § 55-7-09	N*	Y	N
<b>North Dakota</b>	N.D. Cent. Code Ann. § 10-19.1-75.2	Y	Y	N
<b>Ohio</b>	Ohio Rev. Code Ann. § 1701.40	Y	Y	N
<b>Oklahoma</b>	Okla. Stat. Ann. tit. 18 § 1056	Y	Y	N
<b>Oregon</b>	Or. Rev. Stat. Ann. §§ 60.201, 60.222	Y	Y	N
<b>Pennsylvania</b>	15 Pa. Stat. and Cons. Stat. Ann. §§ 1704, 1708	Y	Y	N
<b>Rhode Island</b>	7 R.I. Gen. Laws Ann. § 7-1.2-701	Y	Y	N
<b>South Carolina</b>	S.C. Code Ann. § 33-7-101	N	N	Y
<b>South Dakota</b>	S.D. Codified Laws §§ 47-1A-701, 709	Y	Y	N
<b>Tennessee</b>	Tenn. Code Ann. § 48-17-109	Y	Y	N
<b>Texas</b>	Tex. Bus. Orgs. Code Ann. § 6.002	Y	Y	N

State	Annual Meeting Statute	Virtual-Only Allowed?	Hybrid Allowed?	In-Person Only?
<b>Utah</b>	Utah Code Ann. § 16-10a-708	Y	Y	N
<b>Vermont</b>	Vt. Stat. Ann. tit. 11A § 7.01	Y	Y	N
<b>Virginia</b>	Va. Code Ann. § 13.1-660.2	Y	Y	N
<b>Washington</b>	Wash. Rev. Code Ann. § 23B.07.080	Y	Y	N
<b>West Virginia</b>	W. Va. Code Ann. § 31D-7-708	Y	Y	N
<b>Wisconsin</b>	Wis. Stat. Ann. § 180.0701	Y	Y	N
<b>Wyoming</b>	Wyo. Stat. Ann. § 17-16-701	Y	Y	N
<b>TOTAL</b>		33	46	5

\* Virtual meetings are not generally allowed under statute, but during the 2020 proxy season they were allowed temporarily via executive order or other temporary relief due to the COVID-19 pandemic. These executive orders or other relief may have expired.

\*\* Under California law, the corporation must obtain consent from each shareholder participating electronically. Under Massachusetts law, only private corporations are authorized to hold virtual-only meetings. Both states granted temporary relief from these requirements during the COVID-19 pandemic.

# Appendix D

## Industry Policy and Position Statements

Council of Institutional Investors, Shareholder Rights Group, Interfaith Center on Corporate Responsibility, Ceres, and US SIF letter to Jay Clayton, Chairman, and William Hinman, Director of the Division of Corporation Finance, U.S. Securities and Exchange Commission, “Virtual and Hybrid Meetings: Concerns from 2020 Proxy Season” (July 6, 2020)

Glass, Lewis & Co., 2021 Proxy Paper Guidelines, United States, pp. 4, 53-54 (Nov. 2020)

Institutional Shareholder Services, Americas, Proxy Voting Guidelines, Updates for 2021, p. 22 (Nov. 12, 2020)

Interfaith Center on Corporate Responsibility and Shareholder Rights Group, “Statement on Shareholder Participation and Virtual Annual Meetings” (July 2, 2020)



2020 Multi-Stakeholder Working Group on Practices for Virtual Shareholder Meetings

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