

INDUSTRY GUIDANCE PUBLISHED ON NEW FLEXIBILITIES FOR HOLDING SHAREHOLDER MEETINGS

On 26 June 2020, new legislation came into effect which provides additional flexibility and certainty for companies on how they can hold and conduct general meetings in the period up to 30 September 2020. It also extends the deadline for holding AGMs and for making certain filings at Companies House. An industry-backed guidance note has also been published which provides companies with practical guidance on how to apply the provisions in the legislation relating to general meetings in practice.

The guidance, *Shareholder meetings under the Corporate Insolvency and Governance Act 2020 (Guidance)* has been drafted by a Working Party of the City of London Law Society Company Law Committee and The Chartered Governance Institute, with the support of the GC100 (the Association of General Counsel and Company Secretaries working in FTSE 100 Companies), the Investment Association and the Quoted Companies Alliance. The Department for Business, Energy and Industrial Strategy (**BEIS**) and the Financial Reporting Council have both endorsed the guidance note.

New flexibilities for conduct of general meetings

As the UK government's "lockdown" measures start to be eased, the Corporate Insolvency and Governance Act 2020 (the **Act**) provides useful flexibility to enable companies to temporarily override the requirements of their constitutional documents and/or legislation in relation to the holding of general meetings in respect of meetings held on or before 30 September 2020. The government has powers to extend the period for which these temporary flexibilities are available until 5 April 2021. Companies are not required to use the flexibilities provided for in the Act in relation to the holding of members' meetings but may choose to do so.

Ability to hold virtual meetings: Under the Act, companies will be able to hold general meetings (whether AGMs or other general meetings) on either a fully or partially virtual basis (that is, with attendance and voting occurring electronically). As noted in the Guidance, the Act does not prescribe what

Key issues

- New Corporate Insolvency and Governance Act 2020 provides welcome flexibilities for how companies can hold general meetings in the period up to 30 September 2020
- New provisions allowing for the extension of the date for holding an AGM
- New regulations also published which extend the deadline for certain Companies House filings
- Industry-backed working party publishes new guidance note which contains practical suggestions on how to hold shareholder meetings under the new legislation

method of electronic communication can be used and, as such, companies could decide to hold the meeting via a telephone call or by video conference. The Act enables companies to satisfy the quorum requirements for the meeting electronically, meaning those members attending the meeting are not required to be in the same physical location.

Limiting attendance at meetings: The Act also enables companies to limit attendance at shareholder meetings. The Guidance states that where a company considers it necessary to safeguard the health and well-being of its shareholders, it may decide to proceed with the meeting with only a minimum number of members attending in order to form a quorum (this minimum quorum can be achieved either by in person or by electronic attendance). This means a general meeting could be held on the basis of two members attending by telephone conference call from different locations. This flexibility will remain in place even as the government relaxes the lockdown restrictions on public gatherings ahead 30 September 2020.

Members retain right to vote on resolutions: Companies should note that, whilst the Act permits them to restrict attendance at the meeting, members retain the right to vote on resolutions put to the meeting. The company can determine the means by which those voting rights can be exercised. The Guidance anticipates that, where attendance at the meeting is restricted, this is likely to be achieved in practice by companies providing facilities for members to appoint the chair of the meeting to act as their proxy at the meeting and to vote on their behalf on the basis of the instructions provided. The Guidance notes that, whilst not obliged to do so, companies can choose to enable shareholders to vote directly at the meeting by putting in place dedicated arrangements to facilitate this (e.g. through the use of online voting facilities etc.).

Companies should continue to consider how best to ensure they maintain an effective level of shareholder engagement. In all instances, the Guidance encourages those companies intending to utilise the flexibilities under the Act to consider beforehand the [Best Practice Guidance for AGMs](#) issued by BEIS and the Financial Reporting Council on 8 June 2020, which contains further guidance on how companies can protect shareholders' rights in the context of the coronavirus pandemic.

Whilst the Guidance contains essential information on how meetings can be conducted using the temporary flexibilities provided for under the Act, companies are encouraged to seek specific advice as to the options available to them for holding general meetings.

Extension of deadline for holding AGMs

The Act also enables companies that are required to hold their AGM on a date falling between 26 March 2020 and 30 September 2020 to hold their AGM at any time up to 30 September 2020. Any company considering extending the deadline for holding its AGM will need to consider whether the shareholder authorities passed at its 2019 AGM (for example, director appointments and share allotment authorities) will have expired ahead of the new date for the AGM. There is a similar ability to extend the deadline for a public company to lay its annual reports and accounts before a general meeting.

Under the Act, the government has powers to further extend the deadline for holding an AGM by up to an additional eight months.

Extension of Companies House filing deadlines

Pursuant to powers under the Act, BEIS has published [regulations](#)¹ which temporarily extend various Companies House filing deadlines to provide relief to those affected by the COVID-19 pandemic. The regulations temporarily modify the filing requirements set out in the Companies Act 2006 by extending:

- the accounts filing deadline by 3 months, to 12 months for private companies and to 9 months for public companies.
- the 14 day deadline for the annual confirmation statement after the end of a company's confirmation period to 42 days.
- the 14 day deadline for submitting certain notices of relevant events (for example, a change of director) after they occur to 42 days.
- the 21 day deadline for registering a charge to 31 days.

Companies House has published [guidance](#) which provides further information on the effect of the regulations and has clarified that, if a company has been given more time under the Act to file its accounts, it does not need to apply for a further extension.

Further Information

For further information about any of the matters covered in this briefing, please contact any of its authors, or your usual Clifford Chance contact.

Additional Resources

Click [here](#) to download a copy of the Guidance.

For more background on the flexibilities for the holding of meetings under the Act, refer to our earlier briefing [UK Government publishes draft legislation relating to holding of company meetings](#).

For a copy of the *AGMs and impact of Covid-19: Supplement* (March 2020) which provides best practice on the holding of "closed door" AGMs, please see <https://www.icsa.org.uk/knowledge/resources/agms-and-impact-of-covid-19>

¹ The Companies etc (Filing Requirements) (Temporary Modifications) Regulations 2020

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