

# DIMENSIONS

## ANNUAL MEETING AND PROXY SPOTLIGHT

### The Virtual Shareholder Annual Meeting: Stopgap Solution Or New Normal?

By DIMENSIONS staff

Here's a problem: The traditional, in-person, annual shareholder meetings held by public companies have suddenly become troublesome. The 2020 pandemic has made large gatherings unwise and, in some cases, unlawful. For many companies, "virtual meetings" held online have morphed from optional novelty to downright necessity. In all of 2019, public companies in the United States held only 326 virtual annual meetings; in 2020, companies had already held more than 2,000 by June 19.

Is the virtual meeting just a stopgap solution for pandemic times? Or has Covid-19 permanently turned annual meetings from traditional conferences to online interactive live-streams? The first of Toppan Merrill's 2020 Summer Thought Leadership Programs was (fittingly) a webinar on these issues: [Virtual Shareholder Meetings: Hit or Miss?](#), aired on August 6th. Its purpose was to help companies make sound, practical decisions as they plan for their next annual meeting. The webinar offered a panel of experts:

- **Cindy Blumhardt**, Assistant Director of Investor Relations at Principal Financial Group
- **Bruce Goldfarb**, President and CEO of Okapi Partners
- **Karen Fisher**, VP of Corporate Communications and Investor Relations at Toppan Merrill
- **Mike Spelman**, VP of Solutions Sales at Toppan Merrill

They discussed the pros and cons of virtual annual meetings; the impact on shareholder participation; and their insights on how to make virtual meetings as effective as traditional meetings.

#### The future of the annual meeting: in-person, virtual, hybrid?

"This past 2020 proxy campaign, Covid-19 threw a monkey wrench into the entire process," Toppan Merrill's Mike Spelman stated in his introduction to the webinar. "It forced thousands of publicly traded companies to seek alternative solutions to gather an audience for shareholder meetings."

He asked the webinar's panelists: Will traditional meetings ever resume? Are virtual shareholder meetings the new normal, or will public companies eventually settle on some type of virtual/physical hybrid event?

Cindy Blumhardt responded first with the thought on everyone's mind: "It is really going to depend on the state of the union at that point. Will there be a vaccine for the virus by then?" Her company, Principal Financial Group, will consider the positions that proxy-vote advisory firms ISS and Glass Lewis take on virtual meetings in 2021 before deciding on the type of annual meeting to have. "I think if we do decide to do a virtual meeting, it would likely be more of a hybrid meeting where we have kind of a live video stream from our office in Des Moines—make it a little more interactive."

In shareholder annual meetings unexpectedly held online because of pandemic necessity, Bruce Goldfarb from Okapi Partners warned, the technology may not be sufficient to accomplish the task. "We are relying on technology that, in many cases, was not totally tested for the purposes for which we have been using it," he observed. "We have had to navigate with a faster pace—picking up speed in terms of the number of companies that have made use of a process that was untested." He said he believes the hybrid model, in which physical attendance is permitted while the event is also live-streamed, will be adopted by many companies.

However, he expects that when conditions permit, some companies will return to the traditional in-person meeting. The technological pressures and risks of a virtual shareholder meeting—which he explained later in detail—may not be worth the benefits of online convenience. "There will be some companies who recognize that the challenges of running both a virtual meeting and an in-person meeting have led them to say it may just be worth it to have our meeting in person once again."

While he noted that the decision will be based partly on technology and partly on the input of ISS and Glass Lewis, Mr. Goldfarb thinks the choice will depend on company policy, culture, and even brand identity. "It will come down to how a company works with the service providers and its internal team to prep for...the kind of meeting that everyone feels comfortable with—a way to best put forward the company and its brand and its value to its shareholders and also its stakeholders."

Toppan Merrill's Karen Fisher agreed. "What I think is going to be the deciding point for a lot of corporations is this: Are they able to have virtual-only meetings, or are they able to have a hybrid? A lot of state regulations do not allow them, but a lot of states are coming on board."

### **"More participation in our virtual meeting"**

Cindy Blumhardt pointed out that her company "actually had more participation in our virtual meeting than we have had in a long time in our in-person meetings. We were really happy with that." The company used "basically a chat feature" to allow anyone listening to or watching the meeting online to submit a question.



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When asked to compare the costs of virtual and in-person meetings, Ms. Blumhardt said “it really wasn’t that different.” However, her company has its own large meeting space on its campus. She noted that for companies which need to rent a physical meeting space, an online-only event could bring significant savings. Staff time should also be considered. “From a logistics perspective, it took a lot fewer people to pull off a virtual meeting than it did [for a meeting] in person.”

On that note, Ms. Blumhardt pointed out another benefit of a virtual meeting, the reduced need for the security required by an in-person event where everyone from the board of directors and the entire management team is assembled in one place. “From a security perspective, from a logistics planning perspective, I would say the virtual meeting for us was a big benefit.”

### **Shareholder opposition to virtual meetings**

Mike Spelman then posed a new question: How do you address the issue of shareholders who feel they are being disenfranchised by a virtual annual meeting? Bruce Goldfarb responded, first drawing a distinction between shareholder enfranchisement and the mere “ability of shareholders to attend a meeting and look at the board members whom they have elected.” In his view, the form in which the meeting takes place should be considered separately from the process of giving shareholders a democratic voice as stakeholders. “For me, that franchise part is solved by voting by proxy.”

Nevertheless, an important component of an annual meeting for many shareholders is the ability to “look at your representatives on the board and ask questions.” A virtual meeting may not allow the same opportunities to fire questions at board members and see their reactions in real time.

### **Technology is crucial**

A major concern is the danger of technology problems that could prevent shareholders from participating in the meeting or even accessing it. Mr. Goldfarb emphasized that preparation for an online meeting—e.g., ensuring control numbers are distributed and easy to enter for meeting access—should be taken as seriously as preparation for an in-person meeting. “Part of what you want to do is create the same environment for the virtual shareholder meeting as if you had a live meeting.”

He offered as an example the need to accommodate a contested election in a proxy fight. For starters, “the difference in level of trust is always skewed and attenuated when you have a proxy fight to begin with.” In this potentially baneful atmosphere, the two sides in the shareholder meeting need to be able to submit their votes without hindrance—and that is not necessarily an easy matter. “There may be people who want to vote at the last minute in a contested election and they need to fill out their forms at the last minute. They need to get a legal proxy from their broker and get that legal proxy filled out and sent over electronically. That adds a lot more complexity to the process of replicating a live meeting.”

Then there are the activists and their advisors. Mr. Goldfarb asserted that you have to let an activist speak in much the same way that a shareholder proponent does. “You need to set up all of this ability for people to talk at the meeting. You need to set up the ability to virtually hand over a vote at the meeting, and you need some confirmation from someone whom you cannot see that they have received that vote.”

All these complex matters must be managed and safeguarded with constant vigilance, aware of the underlying danger that something technological may go wrong. “In your front-end preparation, you need to be sure everything is going to work. You want to be sure your technology works. Be sure investors have the ability to attend the meeting. Act early and correctly to get control numbers to third parties. And then you want to make sure that your setup to run the election campaign occurs without a hiccup.”

“When [Okapi Partners] worked for an activist, we reached an agreement with the inspector that we had a redundant way to reach him by email and by phone, and that we were going to get a response that he received the material. It really was about that kind of preparation.”



Live video is essential, Mr. Goldfarb concluded. “We now live in a world where we are communicating this way. I worked with a team of colleagues to make sure that what we were doing and seeing and hearing was happening. And that is quite a challenge when you are doing that remotely.”

### **Focus on agenda structure**

Karen Fisher advised focusing on the agenda structure of the meeting. “If you can get the formal business of your meeting done in a virtual manner, then that is out of the way; you can close it, then you can address the Q&As.” You also need to consider whether and how to permit nonshareholders in an online event, e.g., media, employees, and analysts. Another suggestion is that the company should “engage institutional investors before you decide to go virtually—get their input.”

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