

# 2024 Annual Meeting Handbook

A step-by-step guide to requirements.



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Executing a successful annual meeting of shareholders requires the careful planning and coordination of many parts. It can be particularly challenging for those who are new to the process and may not always have a clear direction about what is included in an annual meeting and what to do specifically as the meeting day approaches.

Whether you are a seasoned professional or managing your first meeting, this handbook is intended to be a resource and practical guide so you can simplify the planning process and identify annual shareholder meeting requirements with the steps and processes needed to have a well-run annual meeting.

Follow this step-by-step comprehensive strategy for planning and running an effective annual meeting of your own:

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### **12 Steps for Planning and Preparation**

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## **REASONS FOR ANNUAL MEETINGS**

Before getting into the necessary preparations just prior to the annual meeting, it is important to briefly cover some fundamentals.

The main purpose of annual meetings is to allow shareholders to elect the directors who are responsible for the oversight of the company and its strategic direction. In addition, shareholders may be asked to vote on matters proposed by management or by other shareholders. These proposals will be included in the company's proxy statement.

### **Legal requirements**

Corporate annual meetings are required under state law,<sup>1</sup> and also under stock exchange listing requirements for public companies.<sup>2</sup> State law also governs many of the procedural requirements of an annual meeting including such topics as the required quorum, the meeting location, whether the meeting can be held virtually and the notice of the meeting.

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Annual meeting requirements will also be contained in the company's own articles of incorporation and bylaws which are governed by state law.

For public companies registered under §12 of the Securities Exchange Act of 1934, federal rules address the requirements of producing and distributing a proxy statement to shareholders.<sup>3</sup>

Planning and Preparation—A checklist to prepare for the annual shareholder meeting.

### **STEP ONE - REVIEW REQUIREMENTS**

Most often the company's corporate secretary or their designee manages and oversees activities related to the annual meeting. Each year, well in advance of the annual meeting, it is a good idea to review both the legal and regulatory requirements as well as the company's corporate documents relating to the annual meeting.

#### **Review requirements**

- Securities and Exchange Commission (SEC) requirements – Check for any changes or updates
- State Law – Verify procedural requirements
- Articles of Incorporation/Bylaws – Review corporate governance provisions

### **STEP TWO - CREATE A TIME AND RESPONSIBILITY CHECKLIST**

The best and often most efficient practice for managing annual meeting preparation is to use a detailed time and responsibility checklist that covers the entire proxy process, including the events leading up to and just following the annual meeting. This chronological list details every important milestone, every necessary action, and every document to be produced and delivered. It also includes the completion date and identifies the responsible individual.

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**Pro Tip:** Consider using a checklist that is annotated to reference state law, SEC, and stock exchange requirements and your company's articles of incorporation and bylaws. This helps to clarify why certain steps in the process are necessary.

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Some companies don't have this internal document and may rely on a version from outside counsel to handle many of the details. Taking the effort to create a complete schedule that is tailored to your company, its calendar, and its processes well in advance of the meeting date is a very useful exercise. When you have this schedule, it serves as the starting point for the upcoming annual meeting each year.

Some of the important dates, tasks, and notices may include the following:

- Develop and distribute director and officer questionnaires
- Draft and review the annual report on Form 10-K and the proxy statement
- Coordinate with the board's meeting schedule for reviews/approvals
- Determine type of meeting, whether in-person or virtual, suggested date, record date, and location
- Prepare annual meeting resolutions for board approval
- Coordinate with external service providers, including:
  - Proxy solicitor
  - Transfer agent
  - Tabulator
  - Printer/Distribution facility
  - Inspector of Election
  - External auditors
- Notices provided to transfer agents/stock exchanges
- Broker search
- Register with the Depository Trust Company (DTC)
- Meeting logistics
- Obtain required documentation:
  - List of registered holders as of the record date<sup>4</sup>
  - Affidavit of distribution
  - Omnibus Proxy and position listing from DTC
  - Oath of Inspector of Election
- Draft the script, ballots, and Rules of Conduct
- Prepare Q&As for the chair
- Rehearse the meeting

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### **STEP THREE - CHOOSE WHAT TYPE OF MEETING YOUR COMPANY WILL CONDUCT**

One of the first tasks related to the annual meeting process is to consider the type of meeting that will be the most appropriate for the company at that time. This can be a significant decision with important considerations and should be finalized approximately six months in advance of the meeting date. Company culture, tradition, company performance, investor concerns, and public health concerns are just a few of the factors that guide the decision. The company's board of directors should be involved in the final decision.

The meeting type will determine the level of planning and preparation required. No matter which type of meeting you decide to hold, the ability of the company's shareholders to fully participate in the annual shareholder meeting is a primary consideration. To facilitate shareholder participation in the annual meeting, the proxy statement should clearly disclose the type of meeting to be held, the location, whether physical or online, and who may attend.

#### **Annual meeting types**

There are generally three types of meetings a company could choose to hold: in-person, virtual, or a hybrid of the two. Traditionally, annual shareholder meetings were always conducted in-person. With the advent of virtual meeting technology, increasingly companies have been moving to virtual shareholder meetings, or in some cases, a hybrid meeting that combines an in-person meeting with a virtual meeting to allow for greater shareholder participation.

Given the trends in technologies and shareholder preferences, some companies are reconsidering the form their annual meeting should take going forward. Some newer companies only know virtual meetings, never having held an in-person meeting.

#### **Virtual meetings**

The number of companies holding virtual meetings has continuously risen over recent years. Virtual shareholder meetings are typically held online at a secure website, and shareholders attend remotely via the internet. It is expected that shareholders will have the ability to pose questions related to the proposals online, as they do at an in-person meeting. Shareholder proponents typically call in on a dedicated telephone number or video connection to present their proposals. Shareholders may also pose questions about the company's business online following the formal portion of the meeting. Shareholders should also be able to cast their votes online in a secure manner while the polls are open and the meeting is in progress. The same formalities of an in-person meeting will be met, and in some cases, the meeting may also be video-streamed over the internet so that shareholders can see the presenters (although this adds to the costs). The more common format has been an audio webcast. Clarity in the proxy statement about the virtual location of the meeting and how to access it is required, along with instructions in the event of any technical difficulties.

The benefits of virtual meetings are many. They allow a wider group of shareholders to participate in the annual meeting regardless of their location, the costs to the company are typically considerably less than an in-person annual meeting, and environmental impacts are significantly reduced. Virtual meetings eliminate the need for a large physical space, security, refreshments, or support staff. They can be run by a small group of people in a room or remotely with good audio and/or video connections if the event is going to be video-broadcast. Replays are also available. Directors may attend via the phone, video or in person, along with the outside auditors and the Inspector of Election.

Many investors have recognized the benefits of holding virtual-only meetings when in-person meetings are not feasible. Some companies choose to post all questions asked during the meeting along with the company's responses on their Investor Relations page after the meeting. The company should include in their official Rules of Conduct its policy for how they will respond to all legitimate shareholder questions.

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### In-Person meetings

Historically, the in-person annual meeting has been the most common form of annual meeting — particularly among established companies. It provides a physical location where shareholders can attend and hear how the company is doing directly from the company's leadership. They typically see and hear directly from the company's chairman of the board and management and have the ability to ask questions in person about any proposals during the formal part of the meeting within limits set forth in the company's Rules of Conduct. Shareholder proponents typically present their proposals in person at an in-person meeting. Shareholders may also elect to vote in person at the meeting by ballot, although most vote in advance of the meeting by proxy. After the formal part of the meeting, shareholders may have the opportunity to personally interact with members of the board and senior managers. While these meetings require significant preparation and are tightly managed, shareholders are welcomed to attend in recognition of their role.

At the other end of the spectrum, for many younger companies or companies where few if any shareholders attend, the meetings are short, simple affairs held in the company's conference room or at the offices of outside counsel. Outside auditors, the inspector of election and outside counsel are typically the only non-company participants present. There is no management presentation, and there may or may not be refreshments. Directors may not be present unless there is a board meeting immediately preceding or following the shareholder meeting.

One disadvantage of in-person meetings is that shareholders who are not able to travel to the meeting are prevented from participating. Some companies will add a webcast feature to the meeting to allow shareholders to watch the proceedings online or after the fact, but those shareholders are not able to vote or pose questions during the meeting. Expense is another consideration; costs of an in-person meeting can be substantial.



### Hybrid meetings

A hybrid meeting combines a physical meeting with the features of a virtual meeting, offering shareholders the option to attend either in person or remotely. Shareholders who attend remotely are able to participate online and cast their votes online while the polls are officially open. With a hybrid meeting, a wider group of shareholders will have access to the meeting. Some companies have switched to hybrid meetings because while many shareholders still want to be able to come to their meetings, the company also wants to increase participation by other shareholders who are not able to attend in person.

One drawback to the hybrid meeting is the expense and duplicative effort. The company incurs the costs of both an in-person meeting as well as the additional costs of a virtual meeting. Furthermore, managing questions from in-person shareholders as well as those participating remotely in a way that treats both groups equally can be logistically challenging; some shareholders may feel left out despite a company's best efforts.

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### Annual meeting resolutions

Several weeks or months prior to the annual meeting, the board of directors will adopt resolutions to set the date and location of the annual meeting; the record date that determines which shareholders will be able to vote; decide whether the meeting will be virtual, in-person or a hybrid meeting; and designate who the proxyholders will be for the company. The resolutions will also appoint the Inspector of Election and authorize the corporate secretary to distribute the notice and proxy statement.

Much work will have already occurred to get to this point to develop the necessary information for the board's approval, and these resolutions will be part of the overall framework for the meeting.

### STEP FOUR - DETERMINE THE MEETING VENUE

The location and the type of meeting you decide to hold will depend on your company, the matters to be voted on, investor expectations, and company resources. Many smaller companies may hold in-person meetings in a company conference room or at their outside counsel's office. The meeting may last only as long as it takes for the chair to read the script and comply with legal requirements. Such meetings can be completely uneventful, and shareholders rarely attend.

These same companies may decide to conduct a virtual shareholder meeting, in which the logistics will include knowing where the chair, the corporate secretary, the director of investor relations, and any technical support will be located. They may all be together with access to the virtual meeting site or remote but still be able to monitor attendance and respond to any shareholder questions. Anyone with a speaking role should have access to a phone line — preferably a landline. Others, such as other board members, the Inspector of Election and outside auditors may all be attending remotely. If an in-person board meeting follows the annual meeting, board members may be physically present for the virtual meeting. Just as with in-person meetings, a process for responding to shareholder questions and comments must be built into the meeting at designated times.

As companies start to mature, some of their shareholders will attend an in-person annual meeting — primarily to meet the management and board and hear firsthand about the company. In other situations, the same handful of dedicated shareholders, who may have bought their stock in an IPO, will attend year after year just to show their support for the company. At some point, the company may decide to move the in-person meeting to an auditorium or hotel facility to accommodate the growing number of shareholders coming to their meetings.

Some smaller companies prefer using a hotel meeting room and its facilities because there are more resources available to support them, and it is more convenient than using company facilities.

### STEP FIVE - MEETING LOGISTICS

The type and location of the meeting help determine some of the logistical considerations. For example, if the meeting will be on company premises, company resources will be used for the most part, although additional security or parking attendants may be hired. If the meeting will be held at a hotel or auditorium, you will need to determine what resources are available from that location, what your needs are, and then arrange for them. If you hold a hybrid meeting, the location must have reliable high-speed internet access and adequate technical support. These logistics have to be scaled to your company and your meeting.

### Security

It is important to plan for the security and safety of attendees at in-person annual meetings, as well as the corporate officers and directors who will be there. Security can range from adding traffic control and setting aside parking for shareholders to inspecting bags of attendees or having an onsite police presence at your meeting.

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**Security is a sensitive topic. Be sure to inform shareholders in the proxy statement of any security screenings and let them know if they will be asked to surrender electronic devices or other personal possessions.**

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If there are contentious proposals or if your company, officers, or directors are in the limelight, you may need to increase security. Some companies will have uniformed officers outside of the meeting and plainclothes officers inside — sometimes less noticeable, other times more obvious. If your meeting is at a hotel, you work with their security and you may have your own security people on hand as well.

There are times when metal detectors may be required for your meeting. Each year, you should explore well in advance of the meeting what level of security will be appropriate for the upcoming meeting based on the current situation. Your needs may change from year to year.

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## STEP SIX - PREPARING FOR THE MEETING DAY

As the annual meeting day gets closer, there are a number of required documents that need to be prepared:

- Agenda
- Ballots
- Rules of Conduct
- Oath of Inspector of Election
- Script
- Final Report of the Inspector of Election

### Prepare the agenda

Some companies will provide an agenda for the meeting so that shareholders know what to expect. Simple, short meetings do not require an agenda.

Agendas typically cover the following:

- Calling the meeting to order
- Welcome and introductions
- Proposals and related Q&As
- Voting
- Announcement of preliminary results
- Adjournment
- Business presentation
- Q&As

### Draft the Rules of Conduct

Companies will often have Rules of Conduct for attendees. It is a good practice to hand them out to shareholders as they walk into the meeting. These rules let shareholders know what is expected and often address:

- Who may attend
- Who may speak
- Time limits for questions/comments
- Nature of questions
- Use of cellphones or other devices, cameras, video and audio recordings
- Prohibited behavior

Typically, questions/comments about the proposals in the proxy statement are allowed after they have been presented during the meeting. Only shareholders may ask questions at this time. Shareholders are typically given two to four minutes to speak, offer their comments, or ask their questions. They may be limited to one question or comment.

If questions come up that are not related to the proposals, the chair will state that there will be time after the formal part of the meeting for questions/comments of a more general nature. Tact and good judgment are required to manage the process, particularly if there are many shareholders who wish to speak.

### Draft the meeting script

The purpose of a script is to organize the flow of the meeting and to make sure the chair or the corporate secretary of the meeting covers all required points. The chair typically begins by calling the meeting to order and then introduces board members, company executives, the external auditors, and the Inspector of Election. Then the chair may cover the Rules of Conduct and announce that a quorum is present so that the meeting can go forward. The chair presents each of the matters to be voted on, announces the voting procedures, the date, and time of the opening and closing of the polls. Finally, after conferring with the Inspector of Election, the chair or the inspector announces the preliminary results before the chair adjourns the meeting. A good practice is to allow a reasonable pause in the script following the presentation of the proposals before closing the polls to allow shareholders the right to vote or change their vote.



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Begin drafting the script a couple of weeks before the meeting so that it can be reviewed and finalized well before the meeting. Allow your Inspector of Election an opportunity to review the script so that they know what is expected, whether they will be asked to present the results and in what form or if the chair will report on the results.

Keep your script simple and avoid repetitive language. While some procedures such as establishing a quorum before proceeding are important — Robert’s Rules of Order don’t really apply. Unless your bylaws require it, the chair need not ask for a motion and a second to present matters that are in the proxy statement or to adjourn the meeting.

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**Pro Tip:** Both the drafter and the chair should practice reading the script before the meeting to make sure the language sounds natural and isn’t overly formal.

**Expect the unexpected.** Prepare an emergency script so that the chair has the appropriate language for any situation that may arise.

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An emergency script ensures that the chair knows what to say and do in case of an emergency or other unplanned event. For example, if someone wants to nominate a director from the floor at the meeting, the emergency script will provide language that notes the company’s advance notice bylaw provision on how that applies to the nomination. If there is an emergency and the meeting must be adjourned, a prepared script allows the chair to quickly declare that a quorum exists and that the matters have been approved or not before adjourning the meeting. In the event of a disruption, you want to have language to cover that situation.

As soon as the formal business of the meeting is over, the chair adjourns the meeting. If there is a business presentation and a Q&A session, they typically occur after the formal meeting has been adjourned.

### **Admission to the meeting**

The location and the type of meeting you decide to hold will depend on your company, the matters to be voted on, investor expectations, and company resources. As noted previously, many smaller companies may hold in-person meetings in a company conference room or at their outside counsel’s office. The meeting may last only as long as it takes for the chair to read the script and comply with legal requirements. Such meetings can be completely uneventful, and shareholders rarely attend.





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Place in the admissions area a list of everyone who will be attending the meeting in an official capacity, such as the Inspector of Election, the outside auditors, outside counsel, the directors, officers, and any shareholder proponents, so they can be greeted and allowed into the meeting room without fuss. Name tags are a simple way to ensure that your official attendees can easily be identified.

Coordinate in advance with any shareholder proponents as to whether they will attend the meeting to present their proposal in-person or have a representative do so. When a shareholder proponent or representative arrives, have a company representative greet the person to explain when and how they will present the proposal. Seat the proponent near a microphone to facilitate the presentation and keep the meeting moving forward.

#### **Select a registration system**

Increasingly, companies are using an advance registration system for both beneficial and registered shareholders who plan to attend the annual shareholder meeting, either in-person or virtual. Each individual's status as a shareholder can be verified in advance, and for in-person meetings, shareholders can print out or bring a bar-coded ticket that the company scans before permitting entry to the meeting. This process provides a secure and convenient way to expedite entry into a well-attended shareholder meeting. It also enables companies to better plan for attendance, seating, parking, and refreshments. For virtual meetings, the advance registration allows the company to better plan for the overall meeting with information about shareholder attendance.

#### **BEST PRACTICES**

##### **Develop a media strategy**

- Know which shareholders plan to attend
- Streamline verification
- Expedite the admission process
- Ensure adequate event planning
- Achieve better control
- Enhance security

##### **Develop a media strategy**

Have a plan for media representatives if they come to your meeting. What sort of identification will you require, for example. Often media representatives will be met by a company representative and accompanied into the meeting. If there are Rules of Conduct applicable to the press, have the printed rules on hand, and make sure they receive a copy. Typically, members of the press are not allowed to ask questions during the formal part of the shareholder meeting.

#### **BEST PRACTICES**

A well-designed ballot reduces the amount of time needed to research whether the shares can be included in the total. The ballot should:

- Identify each matter to be voted on
- Ask for the actual vote
- Have a place for the shareholder to both print and sign their name
- Ask how many shares are being voted
- Ask how those shares are held

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## **STEP SEVEN - REVIEW THE SHAREHOLDER BASE AND VOTING PROCEDURES**

It is always important to understand the company's shareholder base, as different rules apply to the voting procedures for different types of shareholders.

### **Registered holders**

Registered holders own and vote their shares directly through the company. They are listed with the company's transfer agent and tend to be individual holders. Each registered shareholder receives a proxy statement from the company along with a proxy card so that they can vote their shares. The completed proxy card is returned to the tabulator, who scans it and tallies the votes. By signing and returning the proxy card, the shareholder authorizes the board's proxyholders to vote as instructed on the shareholder's behalf. Instructions may also be given by telephone or via the internet if this service is available.

### **Beneficial holders**

Beneficial holders, sometimes referred to as "street name" holders, are shareholders who hold shares in book entry form through another entity, such as a bank or brokerage firm. Beneficial holders must instruct their bank or broker on how to vote their shares on company matters that require shareholder approval. Beneficial shareholders receive a voter instruction form (VIF) from their broker to indicate how their shares should be voted.<sup>5</sup>

Under stock exchange rules, brokers may vote without instruction from the beneficial owner on any "routine matter" as defined by the New York Stock Exchange (such as ratification of the independent auditing firm the company uses to audit its financial statements), but they are prohibited from voting without instruction from the beneficial owner on "non-routine" matters (such as the election of directors or approving an increase in the number of equity plan shares). If the beneficial holder does not instruct the broker on a matter, those uninstructed shares become "broker nonvotes."<sup>6</sup> If the beneficial holder wants to come to the annual meeting and vote, they can request a legal proxy that allows them to vote their shares directly.

In the case of virtual meetings, beneficial shareholders have the ability to attend and vote at meetings without attaining a legal proxy.

In some cases brokers have decided not to vote uninstructed shares on "routine" matters, such as the ratification of the auditor, which has the potential to affect a company's ability to achieve a quorum for its annual meeting.<sup>7</sup>

Additionally, many companies have more beneficial holders than previously as a result of increased interest in investing by individuals, which can present communications challenges if these holders are new to investing or don't bother to vote.

The vast majority of banks and brokerage firms use DTC as a custodian to hold beneficially owned shares on their behalf. The names of the beneficial owners of shares are not listed in the company's stock records. Instead, these shares are shown as owned by Cede & Co., the name used by DTC when holding shares on behalf of its participant banks and brokerages. Upon request, DTC can produce a list showing the shares held by individual banks and brokers.

Because the names of beneficial holders are not listed in the company's stock records, the company does not know who they are, although it is possible to obtain their names if a beneficial holder consents. Beneficial holders who allow their names and contact information to be disclosed to the company are commonly known as "non-objecting beneficial owners" (NOBOs). Shareholders who object to the company being given their name and contact information are referred to as "objecting beneficial owners" (OBOs).

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## **Beneficial holders have the right to instruct their bank or broker on how to vote their shares on company matters.**

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Both registered and beneficial holders may be individuals or legal entities such as trusts or corporations. Employees may be significant owners of the company, and they may be both registered and beneficial holders through equity grants, company stock purchased through employee stock purchase plans, 401(k)s, and other benefit plans which are administered by trustees.

Institutional investors are organizations in the business of investing for others, such as pension funds and mutual funds (or for themselves as their major line of business). Institutional investors often use investment managers and brokers to manage their holdings and are therefore usually beneficial holders rather than registered holders.

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## STEP EIGHT - MONITOR THE DAILY VOTE REPORT

Starting 15 days prior to the annual meeting, Broadridge will send out a daily vote report to the people designated by the company to receive a copy. It is important to monitor this report carefully, as it provides valuable information that can impact the success of your meeting.

### Reaching quorum

At some point prior to the meeting, enough shares should have been voted to reach the required quorum of the shares outstanding. Once a quorum has been reached, the meeting can go forward. Be sure to know the quorum requirements stated in the company's bylaws — typically a majority of the shares outstanding. If you do not have a quorum by the time of the meeting, the meeting will have to be postponed until a quorum can be reached.

### Status of proposals

The daily vote report can also advise how the vote is going on each matter. In some cases, it isn't known until the votes start coming in that a matter is not doing well, in which case you may need to make a concerted effort with investors. Often large investors don't vote until quite late in the process. Some companies engage proxy solicitors to help them with the vote, typically months before the annual meeting, but this can also occur later in the process.

As noted, monitoring the composition of the company's shareholder base throughout the year is essential, as it can change. Shareholder outreach throughout the year in various ways may be required. Some companies have developed multi-pronged approaches to reach the various segments of their shareholder bases.<sup>8</sup>

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**Pro Tip:** Gentle reminders to officers and directors to be sure to vote their shares can be very helpful as they often hold significant amounts of stock. Broadridge or your proxy solicitor, if you have one, may be able to tell you which of your large investors have not yet voted.

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## STEP NINE - DESIGN THE BALLOTS

There are two kinds of ballots for the annual meeting: the shareholder ballot for an in-person annual meeting and the proxy committee or proxyholder ballot.

### Proxy holder ballot

The board will have named one or more people as the proxyholders for the company when adopting the annual meeting resolutions. These are the people who are authorized to actually vote the shares represented by proxy and may be each of the company's general counsel and the chief executive officer. The proxy holders' names appear on the proxy card.

The proxyholder ballot lists the matters to be voted on and then provides a space for the number of shares represented by proxy to be filled in. Broker nonvotes are not included here. The final report of the tabulator will very often have the numbers for this report, although valid proxy cards may be turned in at the meeting, in which case those shares should be included in the total shares represented by proxy.

Once completed, the signed proxyholder ballot is typically kept in the company annual meeting file by the corporate secretary. It serves as evidence that the shares were actually voted and how many shares were represented by proxy.

It is a good practice to have the proxy-holder ballot signed by the proxyholders before the meeting begins and then have the ballot completed before the polls close during the meeting.



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## Shareholder ballot

Any shareholder who wishes to vote at an in-person annual meeting is provided with a ballot. These may include:

- A shareholder who sent in a proxy card but now wishes to revoke it and vote directly
- A registered shareholder who has not yet voted
- A beneficial holder who comes with a legal proxy and is therefore authorized to vote their shares at the meeting

Some shareholders may not be aware that if their shares are held with a broker, they are not able to vote their shares unless they have received a legal proxy from the broker or in some cases, Broadridge. The best way to handle this issue is to politely collect all ballots and allow the Inspector of Elections to determine which shares will be included in the total vote count.

Shareholders who wish to vote during a virtual meeting are able to do so while the polls are open, but their status as a shareholder must be validated before their shares can be included in the vote total. The Inspector of Election will include any shares that have been validated before issuing their final report.

## STEP TEN - FINAL PREPARATIONS

### Prepare the chairman

Some companies help the chairman get ready for the meeting by drawing up a list of questions that may come up at the annual meeting so that responses can be prepared in advance.

The process may gather input from investor relations, human resources, and others. Questions include those that may have arisen during analyst calls and meetings, questions or issues that the corporate secretary's office is aware of, questions on the benefit plans if relevant, company dividends, uses of cash, and more. The point is to consider what is going on with the company, anticipate what shareholders may want to learn, and make sure the chair is comfortable responding to the questions.

Keep in mind that the chair may direct questions to particular officers and directors, so they also need to be prepared. Give some advance thought as to what might come up and make sure that any suggested responses are in line with existing company disclosures.

## Assemble the corporate secretary's binder

The corporate secretary is responsible for bringing any required documents and reference materials to the meeting. In addition to the script, the documents will usually include:

- The Affidavit of Distribution
- A copy of the Omnibus Proxy provided by DTC
- The certified list of registered shareholders as of the record date
- Copies of the company's bylaws
- The certificate of incorporation
- Applicable state laws
- Proxy materials (the proxy statement, proxy card, Form 10-K, and the annual report)
- Anything else that could be helpful

## STEP ELEVEN - THE DAY OF THE MEETING

### Who attends

Many companies ask their board members to attend the meeting in-person or to participate in a virtual shareholder meeting. If shareholders are going to be present, it is good practice to have the board members present, as well as the executives. It is common for board and committee meetings to be held on the same day as shareholder meetings. In some cases, board members will be available by telephone or video at the annual meeting if not there in-person. Public companies must disclose in the proxy statement whether they have a policy about board member attendance at the annual meeting and whether any directors were unable to attend.

Some shareholders care whether board members show up for the annual meeting and may make voting decisions based on director attendance. In the case of a virtual shareholder meeting, directors may be "attending" the meeting but not be physically present — in which case it will be important for the chair to notify investors of their presence in the meeting script.

The outside auditors will send a representative to the meeting either in-person or virtually to be available for questions. The name of the person(s) in attendance is included in the script and the individual is introduced at the meeting.

The Inspector of Election will attend both an in-person meeting as well as a virtual meeting, and will be introduced at either meeting. Sometimes outside counsel is present and is introduced as well, as are any executives in attendance.

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Some companies encourage employees to attend in-person annual meetings — perhaps to fill empty chairs. However, for the most part unless they have a role at the meeting, employees are usually not encouraged to take time away from their work to attend.

### **Role of Inspector of Election**

The Inspector's role, as determined by state law<sup>9</sup> for an annual shareholder meeting, either an in-person or virtual meeting, is to:

- Ascertain the number of shares entitled to vote on each matter
- Determine whether a quorum is present
- Tabulate or oversee the tabulation of voting on each matter
- Rule on the validity of any ballot or proxy present at the meeting
- Certify the final results of voting

The Inspector of Election takes an oath to act with impartiality and to the best of their ability when fulfilling the duties as the Inspector of Election.

### **Final report of Inspector of Election**

The Inspector of Election will come to the meeting with a preliminary report of the votes. If there are no changes at the meeting, that report becomes the Final Report of the Inspector. If there is voting at the meeting, the Inspector will determine the final numbers, include them in their report, and provide it to the company. The company uses that Final Report as the basis for the numbers in the Current Report on Form 10-K that must be filed with the SEC within four business days of the meeting, if the company is subject to those rules.

## **STEP TWELVE - AFTER THE MEETING**

The corporate secretary will draft the minutes for the annual meeting. They may prepare a draft in advance of the meeting based on what is expected to occur, and then revise it following the meeting to reflect actual events. The minutes capture the formal business portion of the meeting. After review by the chairman and others such as the general counsel, the minutes will be filed in the minute books, and a copy included in the annual meeting file as well. The Final Report of the Inspector of Election may also be attached to the minutes.

### **Annual meeting files**

Each year the corporate secretary will create files for the annual meeting. Many have physical files in addition to electronic files. Everything related to the annual meeting will be preserved in these files except the original minutes for the meeting, which will be filed in the company's minute books. Documents may include:

- The Time and Responsibility checklist
- Copies of correspondence with brokers, the transfer agent, plan trustees, Broadridge, and others
- Information about the meeting location
- Information about security
- Contacts (both internal and external)
- The meeting script

After the annual meeting the additional documents may be filed in the annual meeting files or in some cases the minutes book, including:

- The oath of Inspector of Election
- The completed and signed master or proxy committee ballot
- The Omnibus Proxy from DTC
- The certified list of registered shareholders as of the record date
- The Affidavit of Distribution of the proxy materials
- A copy of the blank ballots used at an in-person meeting.

This file may be a shared one, with input from those who worked on the annual meeting. The point is to have a centralized file with evidence of everything related to the meeting so that each year there is a reference point, and no one has to start the process from scratch.

The proxy statement will typically have its own file and backup materials, including information related to management and shareholder proposals.

### **Debriefing session**

Following the meeting, the corporate secretary often holds a debriefing session with those involved to review what went well and note where improvements can be made going forward. Going through this review process is a valuable step that should not be overlooked, as it may begin the planning process for the next annual meeting.

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## ABOUT THE ANNUAL MEETING HANDBOOK

Broadridge has partnered with Kristina Veaco to publish this invaluable resource for those responsible for the planning and execution of an annual shareholder meeting.

### About the author

Kristina Veaco is a corporate governance lawyer and the founder of Veaco Group, a corporate governance advisory firm. The firm specializes in board evaluations and assessments leading to more effective boards. [www.veacogroup.com](http://www.veacogroup.com). Prior to forming Veaco Group, Ms. Veaco was responsible for the Corporate Secretary's Office for McKesson Corporation, and previously headed the corporate securities group at AirTouch Communications. Ms. Veaco is a long-time member of the Society for Corporate Governance, a fellow at the ESG Center of the Conference Board and a member of the International Women's Forum. She is a frequent speaker and author on corporate governance topics. Ms. Veaco is the co-author with Cherie Sorokin of a Bloomberg BNA portfolio on the Role of the Corporate Secretary: Facilitating Corporate Governance and the Work of Corporate Boards, 96 Corporate Practice Series. Ms. Veaco also acts as an independent Inspector of Election through CTHagberg LLC.

- 1 Del. General Corporation Law § 211; California Corporations Code § 600.
- 2 Nasdaq Listing Rule 5920; New York Stock Exchange Listed Company Manual § 302.
- 3 Regulation S-K, Items 401–407; 17 C.F.R. §§ 229.401–407.
- 4 DGCL § 219 [T]he list of shareholders entitled to vote at the meeting shall be available for inspection at the company's offices for at least 10 days prior to the meeting. This list should also be at the meeting site to verify registered holders.
- 5 As noted, DTC is the custodian for the shares held by most of the banks and brokers. In order to vote the shares in a particular company, DTC issues an Omnibus Proxy assigning its voting rights as custodian of those shares to its bank and broker clients. The Omnibus Proxy, which is sent to the company, also lists the number of company shares held by each of its bank and broker clients. The banks and brokers who are clients of Broadridge, in turn, assign their voting rights in the company shares to Broadridge who tabulates the VIFs as instructed by the beneficial holders. Broadridge then appoints the company's proxyholders to vote the shares according to the instructions on the VIFs.
- 6 Broker nonvotes are included in the vote for purposes of the quorum when there is a "routine" matter in the proxy statement, but not towards any matter in the proxy statement that is not "routine." See footnote 9 below.
- 7 TD Ameritrade and Schwab both have eliminated the practice of voting uninstructed shares proportionately to those shares for which they have received instructions.
- 8 Be mindful of the current proxy rules around solicitations starting with Rule 14a-1 under the Securities Exchange Act of 1934, as amended and related provisions.
- 9 See, e.g., DGCL, § 231; Cal. Corp. Code § 707.

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