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### **Annual Stockholders Meeting: Preparation Guide**

We are often asked by clients to assist them in preparing for and holding their annual meetings of stockholders. A variety of materials, including our memorandum, [\*Proxy Materials and Annual Meetings under Maryland Law – 2026\*](#), provide guidance on the major components of an annual meeting, such as proxy statement disclosures and board approvals. However, as there are fewer resources for the conduct of stockholder meetings (other than the ABA's comprehensive *Handbook for the Conduct of Shareholders' Meetings*), this brief guide is intended to serve as a reminder of certain items that should be considered in preparation for annual meetings.

**Stockholder Verification Procedures.** Depending on whether the meeting is contested, you may want to be careful about ensuring that anyone seeking admission to the meeting was a stockholder of record on the record date or is an invited guest of management. For the former purpose, a list of record stockholders as of the record date should be available to the company representative responsible for confirming whether an individual may attend the meeting. Of course, many stockholders (known as "beneficial stockholders") will hold their shares through Depository Trust Company ("DTC"), which maintains accounts with all banks and brokers. For beneficial stockholders, a decision should be made as to what form of verification will be required. For uncontested meetings, many companies accept a monthly statement from a stockbroker showing the person seeking admission as a recent beneficial owner of the company's shares. Beneficial holders who wish to vote at the meeting (as opposed to merely attend) must present a valid legal proxy from the record holder (typically Cede & Co.). Companies should distinguish clearly between procedures for admission and procedures for voting authority.

**Virtual Meeting Providers.** Since the pandemic, many annual meetings have been and continue to be held virtually. While virtual formats simplify some elements of planning, companies should actively engage with their virtual meeting providers rather than passively handing over control. Conversations should include setting procedures for testing the meeting platform and obtaining contact information for a member of the provider team who will be present for the virtual meeting or on call for immediate assistance. Importantly, depending on the provider you use, there may be differing requirements to verify stockholders before, and admit participants into, the meeting, as well as the voting, tabulating and reporting procedures that may need to be disclosed in your proxy statement. Your proxy solicitor may also have some views. A hybrid meeting held in person and virtually will raise these same considerations.

**Postponements and Adjournments.** Under Maryland law, a meeting may be postponed (delayed before the meeting starts) or adjourned at the meeting and reconvened at a later date. A postponed meeting may be held within 120 days of the original record date without setting a new record date. The initial notice of postponement should be provided in such a manner as to notify as many stockholders as possible, such as a formal notice or a press release, but the postponed meeting date should be ten days or more after formal notice of the new meeting date, place and time is sent to all record stockholders. An adjourned meeting may also be reconvened on a date

within 120 days after the original record date without further notice to the stockholders, so long as the date, time and place of the new meeting are stated at the adjourned meeting. If a company is seeking approval of a proposal that may require extra time to receive the necessary votes, you should ensure that an alternate date, time and place for a postponed or adjourned meeting, including any virtual website location, have been selected in advance of the meeting. This advance planning allows the company to announce the date, time and place of an adjourned meeting at the meeting. It may be prudent to prepare an alternate meeting time and place even when there is no foreseeable need to adjourn, as emergency situations, including due to weather or technological issues, may arise. It is typically best to postpone or adjourn for the shortest time that your proxy solicitor advises is necessary to get in the votes, especially for supermajority votes or controversial proposals.

*Agenda and Script.* Prepare a meeting agenda and a script that details what will be said, by whom and when. Ensure the script accurately describes both the logistics of the meeting and any proposals or elections. If you already have a form script for annual meetings, confirm it is updated and consistent. For instance, if a script states the vote standard related to one proposal, it should state the vote standard for all proposals. Proposals may be presented and voted upon collectively or individually. Check applicable state law, the charter (or declaration of trust) and the bylaws for the vote requirement for each item to be submitted to the stockholders for a vote. Additionally, confirm whether the bylaws dictate who will be chair and secretary of the meeting and make sure the script is consistent with that provision of the bylaws. Consider with securities counsel whether to include in the script for the meeting a “forward-looking statement” disclaimer, the need for which may depend on the extent of management remarks or whether any stockholder questions could elicit a “forward-looking statement.”

*Prepare a Q&A in Advance.* In addition to the script, carefully evaluate the topics stockholders may be likely to ask about. Anticipating and preparing answers will allow the company to present information in a way that best highlights the company’s successes and strengths and avoids the risk of potentially giving answers that contain inconsistent messaging or inadvertent disclosure of non-public information. Consider discussing in advance who is best situated to respond to each potential topic if unexpected questions arise. If a current event could impact your business, ensure presenters are prepared to respond to recent or breaking headlines, even if the response is as simple as “no comment” or “we are still gathering information.”

*Contingency Planning.* Try to anticipate the internal questions that might arise on the day of the meeting and how these issues will be resolved. For instance, what will happen if a key presenter is unavailable or an emergency occurs that prevents the holding of the meeting? What contingency plans are in place? If you are holding a virtual meeting, including a hybrid meeting, confirm that providers are prepared for technical difficulties and have communicated to you the procedures in place to resolve potential technical errors or communicate such issues to stockholders. If you are holding an in-person meeting, make sure you have addressed any security-related issues pertaining to the venue (such as whether a list of all people entering the building needs to have been provided to building security in advance). Ensure all members of the meeting team have the information they need to respond swiftly and appropriately in the event of a problem.

*Compliance with Laws.* Holding the annual meeting may trigger certain disclosures under federal securities laws and exchange rules, such as the filing of a Form 8-K or NYSE Annual Affirmations. Review the requirements for the company with your team in advance of the meeting to ensure your compliance with these rules. If the company plans to record the meeting, consider whether this may raise issues of consent, particularly if stockholders may ask questions live, if a stockholder proponent will be presenting a proposal or if the recording is planned to be posted on the company's website. Consider consulting with the company's legal counsel on state recording laws and any issues of consent that may be raised. Remember that anything said, posted to the company website or posted by a social media team must comply with federal securities laws, including Regulation FD.

*Conduct of Meeting Guidelines.* Many companies adopt conduct of meeting guidelines setting forth such matters as how to address the meeting, how long stockholders will be allowed to comment or ask questions and restrictions on the use of signs and recording devices. Review your conduct of meeting guidelines to verify that policies and language appropriately reflect the manner in which your meeting is being held. Guidelines should accurately capture whether stockholders will be typing or speaking their questions. From time to time, we see conduct of meeting guidelines that are tailored for a meeting format (in-person or virtual) that is inconsistent with the format of the meeting. Consider updating guidelines to include more current concerns, such as social media use during the meeting. We have prepared a form of conduct of meeting guidelines that is used with appropriate modifications by many of our clients.

*Inspector of Election and Ballots.* In conjunction with the inspector of elections role, a company must provide a variety of materials: the inspector's oath, the inspector's final report form, the regular ballot and the proxy holder ballot. Make sure that materials are carefully reviewed each year and that any updates to law, method of voting or form of meeting have been properly included. Confirm that materials comply both with applicable law and with the company's own bylaws or policies. The inspector should be selected in advance, of course, and alternate inspectors may be considered as part of contingency planning. The inspector should verify that all ballots, including the ballot executed by the person named as proxy holder in the company's proxy card, have been completed and executed prior to the adjournment of the meeting and that all proxies, including DTC's omnibus proxy, are retained with the records of the meeting.

*Affidavit of Mailing or Distribution.* Ensure that the affidavit makes representations not only about mailing the meeting materials (such as the meeting notice, the proxy statement, the proxy card and the annual report), but additionally about the mailing of the Notice of Internet Availability of Proxy Materials and the posting of the required materials online. If the company has a form affidavit, ensure that details are accurate for the current year and enter the form in the minutes for the meeting.

*Stock Ledger Availability.* Unlike some other states' laws, Maryland law does not require that the stock ledger be available at a meeting. However, virtual meeting providers often include the ledger online with other meeting materials. Maryland companies should consider whether it is desirable to have their stock ledger posted.

*Pre-Recorded Meetings.* While some companies have considered pre-recorded meetings to eliminate contingencies, we recommend against such a practice. Similar to Delaware law, Section 2-503(c)(2)(ii) of the Maryland General Corporation Law requires that, with respect to virtual meetings, “[t]he corporation implement[] reasonable measures to provide the stockholders and proxy holders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting **substantially concurrently** with the proceedings” (emphasis added). Furthermore, these meetings risk alienating investors who expect live engagement, and companies considering this should consult counsel.

*Create an Annual Meeting Checklist.* Preparing a detailed meeting preparation checklist can help to make sure that all procedural and logistical requirements are addressed in advance and that responsibilities are clearly assigned among management, counsel, the inspector of elections and any third-party service providers. The checklist should cover the key workstreams, many of which are described above, day-of roles and other points specific to the company’s meeting. In addition, the checklist should identify required documents and deliverables and establish a timeline for completion and internal review.

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Please do not hesitate to contact us or any of our colleagues with any questions or comments that you may have regarding the foregoing matters.

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