GLASS LEWIS

VIRTUAL MEETING CONSIDERATIONS FOR ISSUERS

Areas of Focus and Examples to Follow

As outlined on our recent post, Glass Lewis believes that the increased use of digital technology in general meetings is long overdue and there are substantial opportunities for emerging technologies to advance shareholder democracy, increase attendance and participation, and ultimately improve the shareholder experience.

However, we express concern that a shift from traditional to virtual meetings -- which we expect to continue beyond the COVID-19 pandemic -- could lead to the disenfranchisement of shareholders unless companies develop and disclose clear procedures to enable the participation of all shareholders in the virtual meeting and allow for meaningful engagement with the board.

While developments in this space will be somewhat dependent on legislative reform, we nonetheless believe that, in general, there are measures to improve the structure and procedures of virtual-only meetings over which companies already have control. There is no one-size-fits-all solution and best practice in this area is likely to evolve rapidly in the coming years. But with some companies already starting to plan their 2021 virtual-only meetings, and others currently unsure on what format next year's meeting will take, we believe that all companies would benefit from soliciting shareholder feedback and starting to consider improvements that could be made to the shareholder experience at next year's AGM.

Recommended Areas of Focus and Examples

- **Encourage Participation:** Many shareholder meetings were substantially shorter this year and were missing the lively discussions that are highly valued by many shareholders as a cornerstone of shareholder democracy and director accountability. ***Chevron Corporation*** showed that this does not have to be the case by adopting an 'open mic' approach and extending the meeting to ensure that no questions were left unanswered, while ***General Motors Co.*** also provided a toll-free number to allow shareholders without an internet connection to listen in. We believe that extra care should be taken to provide shareholder proponents with sufficient space to present their proposals to the meeting, with ***Intel Corporation*** setting aside ample time for the proponents to address their fellow shareholders.

- **Evaluate Emerging Technologies:** Although Glass Lewis does not endorse any particular platform, technological support for conducting the general meeting is available from a growing number of providers. While many companies already use third party services for counting votes or providing a webcast, the choice of service provider and services offered could substantially impact on the ability of shareholders to participate in virtual and hybrid meetings. For example, ***Axon Enterprise, Inc.*** utilises Slido, which allows for shareholders to submit questions, but also to upvote the questions of their peers to help the board determine the order in which these should be addressed. ***Nilfisk Holding A/S*** among others was supported by Lumi AGM, which allows for shareholders to watch, ask questions, and vote at the meeting — all through a smartphone app. Not all technology solutions will suit all companies in all jurisdictions, but issuers should at minimum evaluate the available options in this evolving space.

- **Prioritise Communication, Transparency, and Support:** Decisions to encourage participation may prove to be ineffective unless these are clearly communicated, shareholders receive relevant information in a timely manner, and are able to receive support when navigating new meeting processes. ***Alaska Air Group Inc.*** covered all these bases by transparently outlining its virtual meeting philosophy and shareholder rights in respect of the meeting in its proxy statement, as well as providing an email address for shareholders that encounter issues. ***Intel Corporation*** provided particularly clear instructions for how to attend and vote at the meeting, along with a dedicated support line for shareholders having issues accessing the meeting. Like almost all German companies, the general meeting of ***Deutsche Bank AG*** took the form of a remote meeting without the possibility for live voting or Q&A. However, unlike most of its domestic peers, the company published the transcripts of the general meeting presentations, and statements submitted by shareholders, on its website prior to the voting deadline to allow shareholders to factor these into their voting decisions.

Further Considerations

We believe that all companies would benefit from asking themselves the following questions:

Is a virtual meeting format right for us?

While first time adopters of the virtual meeting format may have experienced substantial cost savings at this year's general meeting, companies should factor actual and perceived reductions in shareholder rights and ability to enter into dialogue into their cost/benefit analysis. For companies that are facing substantial stakeholder criticism, which operate in sensitive industries, or are incorporated in a jurisdiction in which there is a strong culture of open and direct debate at shareholder meetings, there exists a higher risk of directors and managers of companies which convene virtual-only or remote meetings being perceived as hiding away from difficult conversations. This could ultimately lead to stakeholder concerns being escalated and cause additional financial and reputational costs.

As such, a return to traditional in-person general meetings, or the consideration of a hybrid meeting format, may be beneficial to some companies once restrictions on in-person gatherings have been removed or relaxed, despite the generally higher financial costs associated with these meeting formats.

However, for the 2021 proxy season at least, restrictions on in-person gatherings will continue to limit many companies to holding virtual-only meetings. There is no one-size-fits all method for holding virtual meetings and corporate issuers will necessarily have to balance the costs against the size of their company and their shareholder structure. For example, providing a platform that allows for live voting during a virtual meeting is a great way to support shareholder participation, but this may be prohibitively expensive for smaller companies, and an unnecessary expense for companies that generally had low physical attendance levels prior to the pandemic.

How can we support attendance and participation?

In order to reduce the risk of being perceived as unnecessarily or intentionally restricting shareholder rights, companies which are holding virtual-only meetings should aim to utilise the benefits of the meeting format to improve shareholders' experience, while minimising any potential negatives where possible. In particular, we believe that companies should avoid setting additional hurdles for virtual attendance and prioritise transparency and inclusivity. Some easy-to-adopt ideas include plain language disclosure of shareholder rights and requirements to participate, a simulcast of the meeting in sign language and common languages spoken by shareholders, and the provision of a toll-free number to allow less tech-savvy investors to dial in.

Should directors and executives attend meetings physically?

Glass Lewis believes that, under normal circumstances, the virtual attendance of directors and top-tier executives at traditional or hybrid general meetings substantially risks perpetuating the perception that companies are using new technologies to avoid uncomfortable conversations. While virtual attendance at shareholder meetings is clearly preferable to non-attendance, we believe that companies should create transparent rules around the ability of directors and executives to join traditional and hybrid meetings remotely, which should be limited to exceptional circumstances such as illness or other extraordinary impediments, and subject to individual approval by the board or meeting chair.

How do our shareholders feel?

We believe that companies should be putting the topic of general meeting format front and centre in their engagement meetings with those shareholders who are interested in participating in the AGM. Many companies may not have an active engagement relationship with retail shareholders and this group may have substantially different needs and experiences to institutional shareholders; therefore, it may also be helpful to assess the views of larger retail shareholders or associations. In the current context, there are likely to be frustrations stemming from virtual AGMs globally; institutional investors may be able to offer positive examples of best practices from other meetings they have attended.

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