

Virtual-Only Annual Meetings Come Under Criticism

April 3, 2017 | Client Update | 2-minute read

The growth of holding annual meetings online (virtual-only meetings) by more than 150 companies last year, up from 21 five years ago, has agitated some investors. The New York City Comptroller has announced that this month its pension funds will decide on proposed changes to its guidelines to vote against directors on governance committees where companies host virtual-only meetings. If approved, the policy would apply to S&P 500 companies in 2017, unless companies agree to change their practices at the next meeting, and all portfolio companies in 2018. The Comptroller wants to encourage in-person or hybrid (both in-person and webcast) meetings instead.

According to its [press release](#), [letters](#) have been sent to more than a dozen large companies. The Comptroller believes that companies moving to virtual-only meetings are depriving shareholders of the ability to have direct interaction with management and boards. While recognizing that technology can be used to increase shareholder participation, their letter indicates concerns that some companies may be using virtual-only meetings to filter discussion with shareholders, “cherry-pick” those shareholders allowed to ask questions and insulate boards and management from shareholders expressing frustration or presenting shareholder proposals directly.

The initial controversy over virtual-only meetings that began in 2009, which caused a few companies then to reverse course after receiving negative publicity, had appeared to dissipate. Virtual-only meetings proliferated in the last few years, mostly at mid-cap and smaller companies, even while investors such as Walden Asset Management and CalPERS have consistently advocated that online meetings should only be supplement in-person meetings.

The renewed attention paid to virtual-only meetings may have been triggered by more large companies adopting the practice. According to a [recent article](#), 14 S&P 500 companies held virtual meetings in 2016, and already at least six S&P 500 companies that have filed proxy statements have indicated that they will do the same this year. In addition, this season a few shareholder proposals asked companies to initiate or restore in-person meetings. The proposals were ultimately decided by the SEC staff to be excludable as matters of ordinary business and will not be voted on.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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