

Australian
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**Company
Directors**



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Law Council
OF AUSTRALIA

Business Law Section

AGMs using technology

Joint guidance

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Foreword

Annual general meetings (AGMs) are a cornerstone of corporate accountability and transparency. They provide a platform for members and shareholders to engage with company boards, ask questions and vote on matters fundamental to governance.

Since the COVID-19 pandemic the use of technology to convene hybrid and virtual AGMs has steadily increased. During the pandemic ASIC worked closely with government to implement emergency measures to assist companies of all types hold AGMs and execute documents using technology, despite the restrictions on face-to-face gatherings then in place in many parts of Australia.

Building on these emergency relief measures, in 2022, the Corporations Act 2001 was amended to permanently enable online meetings, electronic signing of documents, and electronic delivery of meeting-related materials to members. These changes were an important and overdue modernisation of Australia's corporations law.

As required by the legislation, the government appointed an independent panel to conduct a statutory review of the operation of the permanent changes. The panel's Final Report findings and recommendations were tabled in Parliament on 9 September 2024 and endorsed by government on 4 February 2025. A key recommendation of the panel was for ASIC and other bodies to provide guidance on facilitating meetings using technology in line with their respective roles. ASIC released updated FAQs on 26 March 2025, clarifying its views on a range of matters in relation to holding online meetings.

I am therefore pleased to see that the Australian Institute of Company Directors, the Australasian Investor Relations Association, the Governance Institute of Australia and the Business Law Section of the Law Council of Australia have partnered to publish this joint guidance to reflect key learnings from the first three years since the permanent changes took effect.

Hybrid and virtual AGM formats present a valuable opportunity to make member engagement more inclusive, efficient and flexible. But it is critical that the use of technology enhances, rather than diminishes, the rights of members to participate meaningfully in these meetings.¹

I encourage all boards, company secretaries, legal advisors and investor relations professionals to engage thoughtfully on how best to harness technology to strengthen trust and participation in corporate governance, and commend this guide as a valuable reference point.

Joe Longo
Chair
Australian Securities and Investments Commission (ASIC)

¹ See [FAQs: Virtual meetings for companies and registered schemes](#), Australian Securities and Investments Commission, 26 March 2025.

Contents

Introduction	4
Background	4
1. Using technology to conduct AGMs	5
1.1 Meeting format	5
1.2 Preparing for a meeting using technology	8
1.3 Notices of meeting	9
1.4 Example notice of meeting wording	9
2. Reasonable opportunity to participate	10
2.1 Oral and written questions	10
2.2 Managing questions at meetings using technology	10
2.3 Voting via poll	13
3. Managing issues with technology at a meeting	14
3.1 Cyber security	15
3.2 Where virtual participation fails	15
3.3 Recording meetings	16
Timeline and Checklist for AGM logistics	17
About the authors	21



Introduction

This guide is a joint publication by the Australian Institute of Company Directors (AICD), the Australasian Investor Relations Association (AIRA), the Business Law Section of the Law Council of Australia (BLS) and the Governance Institute of Australia (GIA).²

It reflects key learnings from the first three years since permanent changes to the *Corporations Act 2001 (Cth)* (Corporations Act) took effect enabling the use of technology to hold annual general meetings (AGMs) and other meetings. It also includes guidance to address areas of concern raised as part of the Independent Statutory Review of the effectiveness of the permanent reforms (Review).

While some companies have been using webcasts for at least 15 years in connection with their AGMs, the use of technology at AGMs became almost universal during COVID-19, when physical meetings were not permitted and has remained a feature of most AGMs and other company meetings since pandemic-related restrictions ended.

This guide is not prescriptive and does not suggest which type of format companies should use to hold meetings. It sets out suggested practices companies may want to adopt when using technology to hold AGMs and other meetings, recognising there is no 'one-size-fits-all' approach. While primarily directed at publicly listed companies, unlisted companies and not-for-profits (NFPs) may find the suggestions in this guide useful when using technology to hold meetings. The suggestions may need to be adapted to suit the circumstances of an individual company.

The AICD, AIRA, BLS and GIA have consulted a number of key stakeholders in preparing this guide, including their members, directors, regulators, investor relations professionals, legal advisers, company secretaries, investors, registries, technology providers and others. Their feedback and suggestions have informed its contents.

Background

In 2022, reforms under the *Corporations Amendment (Meetings and Documents) Act 2022* (Meetings and Documents Act) came into effect enabling companies to use technology to hold meetings, execute company documents and send meeting-related materials electronically on a permanent basis – improving temporary relief measures put in place to allow flexibility during the COVID-19 pandemic.

As required by the Meetings and Documents Act, the effectiveness of these reforms was independently reviewed in 2024 with a particular focus on how the use of technology (including in particular, the use of virtual and hybrid meeting formats) had impacted member participation, transparency and corporate governance standards.³ The Review found that companies and their members are still transitioning to the use of virtual meeting technology (whether as part of a hybrid meeting or for a virtual-only meeting), and more time may be needed to become adept with new technology and learn from best practice examples. The Review encouraged the development of standards and guidance for virtual-only meetings.

The Review recommended that:

- **Public listed companies** and listed registered schemes should continue to have the flexibility to adopt the meeting format that best suits their circumstances and members – whether that be a physical, hybrid or wholly virtual meeting (provided a wholly virtual meeting is permitted in their constitution).
- **Unlisted entities** (including proprietary companies, unlisted public companies, unlisted registered schemes, NFPs and companies limited by guarantee) should also continue to have the flexibility to determine the appropriate meeting format. However, unlike publicly listed companies, there should be no statutory requirement for constitutional permission before a wholly virtual meeting may be held.

These recommendations were agreed to by the Commonwealth government in February 2025.⁴ At the time of publishing this guide there was no indication as to when legislation would be enacted to give effect to the amendment allowing unlisted entities to use virtual meetings without constitutional authorisation.

ASIC issued updated FAQs on 26 March 2025 clarifying a range of matters in relation to holding virtual meetings.⁵

² This guide also serves as an update to earlier joint guidance released by AICD, AIRA, BLS and GIA in March 2022 when the permanent reforms first took effect. See [Electronic governance reforms: Meetings and documents](#)

³ Statutory Review of the Meetings and Documents Act, [Final Report](#).

⁴ [Government response to the Statutory Review of the Meetings and Documents Amendments](#).

⁵ See [FAQs: Virtual meetings for companies and registered schemes](#), Australian Securities and Investments Commission, 26 March 2025.



1. Using technology to conduct AGMs

1.1 Meeting format

The law enables flexibility for boards to adopt the meeting format most appropriate for the company and its members. There is no one-size-fits-all approach.

Which format a company chooses will depend on a number of circumstances. Factors that may influence a company's choice include the:

- company size and available resources;
- nature of its member base (for example, the mix of retail shareholders, institutional investors and special interest groups that may wish to attend the AGM – noting in many cases, institutional investors will not attend, and will vote in advance of the AGM or by proxy);
- location of its member base (for example, a hybrid or virtual meeting may allow for greater participation of members that reside interstate or overseas);
- type of meeting (for example, AGM or extraordinary general meeting (EGM));⁶
- market cycle;
- particular issues confronting the company or raised by members/stakeholders (for example, if there are contentious issues on the agenda or surrounding the company, members may be more likely to attend in person); and
- whether the company's constitution expressly permits a wholly virtual meeting.

The board should decide the AGM format each year taking these factors into account.

The table on the next page compares the available meeting formats.

⁶ This guide is focused on members meetings of publicly listed companies dealt with in Part 2G.2 of the Corporations Act. Some of the guidance may be relevant to meetings of the members of a managed investment scheme covered by Part 2G.4 noting that there are some differences between the two sets of provisions. Also, this guide may be relevant to the conduct of scheme of arrangement meetings under Part 5.1 of the Corporations Act, noting that the choice as to the form of a scheme meeting is ultimately a matter for the Court that makes the order that the scheme meeting be convened.



Format	Features	Participation rights
Physical meeting only	<p>A physical meeting takes place at a specified physical location with members and others attending in person.</p> <p>Note: it is also possible to connect two physical meetings using technology – see sections 249R(a) and section 249S(6).</p>	<ul style="list-style-type: none">• Members attending physically can vote and ask questions.• Members can vote by proxy and by direct vote (if permitted by the company's constitution).
Physical meeting with live webcast	<p>A physical meeting with a live webcast takes place at a specified physical location with members and visitors attending in person. A live webcast or broadcast of the meeting will be made available online for members and visitors to view.</p>	<ul style="list-style-type: none">• Members attending online via virtual meeting technology can form part of the quorum, vote and ask questions, both orally and in writing.• All members attending can vote before the meeting by proxy or by direct vote (if permitted by the company's constitution).• Members viewing the webcast online will not count for the purposes of a quorum, not be able to participate, ask questions or vote. Some companies enable members viewing a webcast to submit questions online through a virtual meeting platform. <p>Members' participation rights for this format should be very clearly communicated in the notice of meeting so there is no confusion with a hybrid meeting. See below for further guidance on the notice of meeting.</p>
Hybrid meeting	<p>A hybrid meeting involves two components that are linked using technology – a physical meeting and an online meeting. The physical component takes place at a specified physical location with members and visitors attending in person. The online component takes place using technology, typically through a virtual meeting platform.</p>	<ul style="list-style-type: none">• Members attending online via virtual meeting technology can form part of the quorum, vote and ask questions, both orally and in writing.• All members attending can vote before the meeting by proxy or by direct vote (if permitted by the company's constitution).

Continued

“ The law enables flexibility for boards to adopt the meeting format most appropriate for the company and its members. There is no one-size-fits-all approach.

Format	Features	Participation rights
Wholly virtual meeting	<p>A wholly virtual meeting takes place online using technology, typically through a virtual meeting platform.</p> <p>Constitutional requirement</p> <p>A company may only convene a wholly virtual meeting where its constitution expressly permits a wholly virtual meeting.⁷ Where a company's constitution does not currently permit wholly virtual meetings, it will be required to amend its constitution by way of a special resolution, requiring the support of at least 75 per cent of the securities held by members who vote on the resolution, in attendance at the meeting, by proxy or direct vote (if applicable).</p> <p>Note, the Review recommended that for all entities other than publicly listed entities, there should no longer be a requirement for constitutional permission. At the time of writing, the Commonwealth government has endorsed this recommendation, however, there has been no legislative amendment to give effect to this change. In the meantime, this requirement continues to apply to all entities that are subject to the Corporations Act seeking to convene a wholly virtual meeting.</p>	<ul style="list-style-type: none"> Members attending online via virtual meeting technology can form part of the quorum, vote and ask questions, both orally and in writing. Members can vote before the meeting by proxy and by direct vote (if permitted by the company's constitution).

It is important to note that virtual and hybrid meetings cannot exactly replicate for online participants all of the attributes of a physical meeting. However, if well managed, they can offer an experience that enables those members to participate in the meeting effectively, especially if many of the members are located outside of the city where the meeting is being held.

The law requires companies convening a meeting using technology, either a hybrid or virtual meeting, to ensure the technology is reasonable and allows members who are entitled to attend the meeting a reasonable opportunity, as a whole to ask questions and make comments both orally and in writing.⁸ Members must also have an opportunity to vote in real time.

SME and NFP meeting formats

While not appropriate for publicly listed companies with large member bases, smaller companies, charities and NFPs convening hybrid or virtual meetings may choose to use more accessible or free virtual meeting technology. For example, platforms such as Zoom, Microsoft Teams and Google Meet have in-built audio features enabling full participation rights for members, including voting and asking questions both orally and in writing. However, if voting by poll, rather than by show of hands at a hybrid or virtual meeting, additional arrangements may need to be made to record a vote by poll. The use of any free virtual meeting platforms should still be carefully managed and subject to clear protocols that cover who may access the platform and the relevant security arrangements.

⁷ Section 249R of the Corporations Act.

⁸ Section 249S (5), (6) and (7) of the Corporations Act.

1.2 Preparing for a meeting using technology

There are many logistical aspects that need to be worked through in advance of a meeting to ensure the use of technology is seamless, particularly in relation to how questions will be managed when they are received during the meeting via a virtual meeting platform. It is important to make these arrangements in advance. Preparation is key.

Key considerations when planning a meeting using technology



- **Technology options:** Contact your share registry and virtual meeting platform provider to discuss meeting and technology arrangements, including contingency plans in the event of technology failures. They should be able to advise about features which may enhance members' experience, including options to meet requirements for members to be able to ask questions and make comments both orally and in writing. See **Section 2 – Reasonable opportunity to participate** for further detail.
- **AGM details on website:** Have dedicated AGM content on the company website. This can include the details of arrangements for the meeting, meeting-related materials (including the notice of meeting), links for webcasts or virtual meeting technology and how to lodge questions. You may also wish to include a short video demonstrating how to use the virtual meeting platform.
- **Proxy voting:** Include specific provisions in the notice of meeting encouraging members to vote by proxy or directly, supplemented by similar messaging on the company website. While proxies and direct voting may still be lodged via mail to the company, postal services can be slow. Members should be encouraged to lodge their proxy or direct vote online where possible.
- **Auditor attendance:** The auditor of a listed company is required to be provided notice and attend the AGM. Check with the auditor in advance about any requirements they may have as they are likely to be attending numerous AGMs.
- **Privacy:** Be conscious of privacy issues and notify members if the meeting will be recorded.



Tips for planning AGM using technology

- **Retrospective:** Work with the relevant areas of your company to review last year's AGM. What worked well? What could be improved? Have there been any changes that might indicate the company should use a different format this year? What were the trends emerging from the last AGM season? Do you know who is on your register (not all investors are the same)?
- **Consider the audience and what they may want or need:** Who attends the AGM? Do you have a large retail shareholder base? Do employees hold shares that are eligible to vote? Will representatives of any special interest groups attend the meeting? Have there been any recent contentious issues? Has the company had feedback about last year's AGM from retail and institutional investors during engagement meetings?

The answers to these questions will influence how a company may use technology and how it handles matters such as questions.

1.3 Notices of meeting

A company's notice of meeting, and any corresponding messaging relating to the meeting on a company's website, should clearly specify both:

1. the meeting format; and
2. how members can participate in the meeting.

When describing the type of meeting in the notice of meeting, it is important to use consistent language and avoid using terms interchangeably – particularly when describing available technology options, for example, the use of the terms 'hybrid', 'virtual', 'live webcast' and 'online'. Ill-considered use of these terms can confuse members – particularly regarding how they can participate in the meeting.

By way of illustration, if a company is convening a physical meeting with a webcast for members to view online, the notice of meeting should explicitly clarify that members viewing the webcast will not be able to ask questions or vote during the meeting.

1.4 Example notice of meeting wording

- **Hybrid meeting:** "This year's meeting will be held as a hybrid meeting, giving members the opportunity to participate in the meeting, including voting and asking questions, online or in person at the venue."
- **Physical meeting with webcast:** "This year's meeting will be in person at [insert location]. A live webcast of the meeting will also be available to view online at [insert website link]. Please note, the live webcast will enable members to view the meeting only. Members viewing the live webcast will not be able to vote or ask questions during the meeting."

The notice of meeting should also specify in detail *how* members can participate in the AGM (and whether and if so, how guests may also attend the meeting) using technology, including:

- how to access any virtual meeting platform being made available (including website links);
- whether and what login credentials are required (for example, a Securityholder Reference Number (SRN) or Holder Identification Number (HIN));
- how members can vote both in advance of, and during, the meeting;
- how visitors can register to watch the meeting;
- how members can ask questions and make comments both orally and in writing, including whether oral questions will be facilitated via a separate telephone line or the virtual meeting platform itself (noting that a separate telephone line is not required if the meeting platform allows for two way audio communication);⁹
- whether a moderator will be used to facilitate member questions on the day;
- whether the company anticipates that participants will experience any delays between the in person and online component of the meeting, for example, in a hybrid meeting or physical meeting with webcast; and
- troubleshooting options in the event of a technological failure, including the contact details of the share registry or virtual meeting platform provider for assistance. See **Section 3 – Managing technology at a meeting** for further guidance.

The notice should also include details of how members can obtain further information before or during the meeting if circumstances change.

⁹ ASIC has confirmed that it does not 'view the Corporations Act as always requiring a phone line, in addition to an online live voice option and an online writing option'. See [FAQs: Virtual meetings for companies and registered schemes](#), Australian Securities and Investments Commission, 26 March 2025, (FAQ 16).

2. Reasonable opportunity to participate

Where a meeting is held using technology, whether or not it is also being held at one or more physical venues, the law requires that virtual meeting technology be:

- reasonable; and
- allow the members entitled to attend a reasonable opportunity to ask questions and make comments both orally and in writing.¹⁰

Members must also have an opportunity to vote in real time after considering responses to questions and debate, even if they already have an opportunity to vote before the meeting by way of proxy or direct vote (if permitted by the company's constitution).

2.1 Oral and written questions

Virtual meeting technology continues to evolve and technology enabling members to ask questions is quite widely available on a variety of platforms. Given the rapid pace of change it is likely to evolve further in future meeting seasons.

Some companies have met the oral question requirement for members attending online by providing an external telephone number to dial and ask questions through a conference call facility.¹¹ Most virtual meeting platform providers now provide an 'audio question' feature, enabling members to ask questions orally directly over the platform once they have logged in and provided any required identification such as the HIN/SRN. When considering the oral question facility, companies should be mindful that the audio quality of a member's in-built microphone working with an online platform will vary depending on the type of device and internet connection used by the individual member asking the question. The process for asking questions orally, should be clearly explained in the notice of meeting.

2.2 Managing questions at meetings using technology

As a matter of good practice, changes to account for a virtual meeting environment should be tailored, as far as possible, to preserve and promote genuine and effective interaction between members and the directors. This principle extends to how companies manage questions at meetings using technology, whether that be a hybrid or wholly virtual meeting.

Role of the chair

The chair of the meeting, typically the chair of the board, plays a pivotal role in meeting the company's obligation to give members, as a whole, a reasonable opportunity to participate in a meeting, including the effective management of questions received in the room and online. This can be a delicate balancing act.

“The duties and the powers of a Chair include the following:...Be continually conscious of the passage of time, and the degree of progress through the agenda items as compared with the time at the disposal of the meeting. Endeavour to guide and regulate debate with a view to the completion of all business within, at the most, a reasonable extension of the available time, while having regard to the desirability of securing an adequate range of opinion and discussion on each item.”¹²

Horsley & Lang's Meetings Procedure and Practice

¹⁰ Section 249S, (6) and (7) of the Corporations Act.

¹¹ Telephone lines come at an additional cost and in practice have been rarely used by members to ask questions.

¹² Horsley & Lang's Meetings Procedure and Practice, 8th Edition, A D Lang para 6.11 at page 73

Meetings using technology can create special challenges for a chair, particularly given that members generally do not have their cameras on in a virtual meeting, and if questions are being asked in writing and read out by a moderator, it is not possible to experience the tone or other communication indicators, such as body language, that are typically conveyed when a question is asked or a statement is made at a physical meeting.

A chair should view an AGM as an opportunity to demonstrate and improve trust and accountability with members through the way in which members' questions are dealt with. Meetings are a particularly good forum to better understand the broader state of member attitudes, particularly in the case of publicly listed companies and those of retail members, as many companies are already in regular contact with their institutional investors.



Tip:

Chair's powers: As chair of the meeting, make sure you are aware of your powers in relation to the meeting, both at general law and under the company's constitution. For company secretaries and legal advisors, a summary of these powers can be included in the chair's briefing pack for the meeting.

Context is very important when managing and responding to questions at a meeting, and the chair and board should be alive to both the company context and external environment when preparing for question time at a meeting. For example, if a meeting takes place during or after a company crisis, or a time where the board is aware of significant member dissatisfaction with the company, its reputation or performance, it may be prudent to factor a longer allowance for question time.

Key considerations for managing questions at meetings using technology

- **Questions received in advance of the meeting:** It is not uncommon to receive a large number of questions before a meeting and it can be good practice to group questions by themes to avoid repetition and reduce the length of meetings. However, where there are questions relating to particularly sensitive issues it may be preferable to avoid grouping questions, see below for further detail on moderation. Where questions have common themes, the company may wish to incorporate answers into the chair's speech. However, it may also be prudent to have pre-submitted questions addressed by the chair during question time of the particular agenda item they relate to, where applicable.

If a company is convening a physical meeting with a webcast, it is important that the notice of meeting makes clear whether members *viewing* the meeting online, who are unable to participate live during the meeting, will have an opportunity to submit questions in advance of the meeting or during the meeting.

- **Questions received at the meeting:** Companies should consider enabling the question function on the virtual meeting platform once the meeting starts, allowing members attending online to submit written questions and to ensure sufficient time is provided for questions, both orally and in writing. It is important that the chair signals to the meeting early in proceedings how questions will be addressed in the agenda, including:
 - whether a moderator will be used to put questions received online to the chair or whether the chair will read online questions;
 - how the chair will deal with repetitive questions or questions that do not relate to the business of the meeting;
 - whether the chair will alternate between answering online questions and questions from the physical meeting room, or otherwise; and
 - when the question function on the virtual meeting platform will close to enable members attending online to submit final questions, both orally and in writing.

- **Verification of identity:** Companies should consider whether they will require members to verify their identity before asking a question orally. Verification processes may enhance security but may also add cost and delays. The process for asking questions orally, including any requirement to contact the registry to verify identity, should be clearly explained in the notice of meeting. Registries and technology providers will be able to assist with more information.
- **Moderation:** Given the number of functions the chair of a meeting using technology must manage, most companies review questions before they are sent to the moderator or chair for a response. The review is typically carried out by a member of the company secretariat, investor relations team or a share registry representative. Questions are generally reviewed to ensure that they are not defamatory or unrelated to the business of the meeting (for example, questions related to customer matters that can be separately referred to a customer service representative for a response). Where a question is repetitive and has already been answered, this may also be advised to the chair to address in the appropriate way they see fit – see below for further detail on repetitive questions.

To improve the flow of a meeting some companies also arrange for a moderator or host to read questions aloud to the meeting for the chair to answer. A moderator should generally not be involved in the review of questions received, which should be left to the review function. The proposed use of a moderator should also be set out clearly in the notice of meeting and be explained at the start of the meeting.

- **Repetitive or duplicative questions:** While it is within a chair's discretion to decline to address repetitive or duplicative questions separately, it is important to manage members' expectations and to consider that there may be nuances in questions that would be lost if questions were grouped. Where a question is practically identical to others previously addressed, and the chair does not wish to address it separately, the chair should acknowledge that other members have asked questions along the same lines as the one that was answered. At the same time, a company facing significant scrutiny involving issues that relate to the business of the meeting may consider having all questions received read aloud to the meeting to demonstrate acknowledgement of member concerns. This can considerably lengthen the meeting, but the company may consider this is warranted in exceptional circumstances. This is a matter for the discretion of the chair.

The chair may wish to consider reading out the name of each person when their question is relayed to the meeting. If members hear their name associated with their question, or a consolidated question that captures their issue, this may increase their sense that their question has been answered.

- **Time limits or caps:** It is generally not good practice for a company to impose pre-determined time limits for questions or caps on the number of questions relating to items of business at the meeting. However, it is within the chair's discretion to decide on when question time should be brought to an end to ensure the flow of proceedings of the meeting is managed effectively. The company's obligation is to give the members 'as a whole' a 'reasonable opportunity to participate' in the meeting. Members do not have an unlimited right ask questions or make comments. It may be quite reasonable to bring debate on an item of business to an end if questions continue to be repetitive or are dominated by one or two members asking follow-up questions which prevent the meeting from moving on. Companies should also be alive to the risk of members 'flooding' the question function on the virtual meeting platform with multiple questions which can deny the opportunity for other members to ask questions. This can be addressed by indicating to the meeting that the chair will only answer a specified number of questions from each member in the first instance to give all members an opportunity to ask questions or make comments.
- **Record of questions:** After a meeting has finished the company should confirm that all the questions asked have been dealt with and a record of questions and comments received both before and during the meeting is kept. Companies may consider making this record available on the company's website within a short time frame of the meeting occurring (although they are not obliged to). This record should not form part of the minutes of the meeting.

2.3 Voting via poll

Publicly listed companies should be aware that all resolutions set out in the notice of meeting are required to have voting conducted via a poll, however procedural motions may still be put to a vote by show of hands.¹³

The default method of voting on resolutions for all other entities is by a show of hands, unless a poll is demanded.¹⁴ For registered schemes, special or extraordinary resolutions must be voted on via a poll, with other resolutions required to be decided by a show of hands, unless a poll is demanded.¹⁵



Tips

- **Polls:** Open the poll for online voting at the beginning of the meeting and, before closing the poll, the chair should make sure that they give a clear notice that they are about to do so and provide a short window, around five minutes, for members to have a final opportunity to cast their votes. This notice can be given simultaneously with the chair stating that they will close the poll at a specified time.
- **Check documentation:** When checking the notice of meeting and proxy form, make sure that the details and resolutions are consistent. If there will be a special resolution, make sure it is described as a special resolution. If there is a resolution for the purpose of a particular legal requirement, for example a particular ASX Listing Rule, ensure that the particular legal requirement is clearly specified.

¹³ Section 250JA of the Corporations Act.

¹⁴ Section 250J(1) of the Corporations Act. This is a 'replaceable rule' only but most company constitutions provide for resolutions to be put to a vote by a show of hands unless a poll is required in accordance with the constitution. For registered schemes, special or extraordinary resolutions must be voted on via a poll, with other resolutions required to be decided by a show of hands, unless a poll is demanded.

¹⁵ Section 253J(1) and 253J(2) of the Corporations Act.

3. Managing issues with technology at a meeting

The use of technology for convening meetings has, in recent years, undoubtedly reinvigorated the AGM, by removing geographical and physical barriers to attendance and increasing member engagement. While the technology supporting virtual meeting platforms has continued to evolve, companies should still be aware of the risks if issues with technology are encountered on the day – whether by the company/meeting platform or from members.

Technological issues at the members' end can be frustrating and more difficult to resolve than company technological issues – for example, internet network speeds or security software or firewalls preventing connection to the meeting. Companies should have troubleshooting tips available in the notice of meeting and/or on the AGM section of the website (and ideally a telephone number for members to contact for assistance, although this might not always be feasible for smaller companies).

That said, provided the technology used by the company for the meeting is reasonable in the sense that members with access to typical or widely available technology should be able to participate in the meeting, a company is not responsible for a member's inability to participate.

As with physical meetings there need to be contingency plans in place. It is important that companies consult their platform provider early to make arrangements and contingency plans if a technological disruption is encountered during the meeting. Virtual and hybrid meetings all need a fail-safe redundancy, including a back-up meeting forum, if the primary meeting fails. Companies should, in consultation with their platform provider, ensure that they have invested the necessary time and resources to ensure technology operates smoothly and redundancy measures are fully capable.



Tips

- **Troubleshooting:** Workshop potential problems or disruptions that may arise during the meeting and potential solutions. If something goes wrong during the meeting a clear explanation from the chair of what went wrong and why, can assist in managing members' expectations. Monitoring social media in advance of the meeting can assist in planning for potential disruptions.
- **Inherent powers of the chair:** The chair of a meeting has inherent power to take action to ensure the proper conduct of the meeting in the event of a disruption and this power should extend to technological disruptions at virtual or hybrid meetings. For example, the chair can use their discretion to adjourn the meeting without a member vote if a meeting is so disrupted that it cannot continue at that time.

The notice of meeting is an opportunity to communicate what redundancies are in place and to address potential issues prior to the meeting – for example, a delay between the in person and online component of the meeting. This information can also be repeated in the AGM section of the company website. It is important to note that disruptions to meetings are not exclusive to meetings using technology. Physical meetings can also be disrupted by power failures or other unexpected events. Thorough planning and rehearsals are key to managing these disruptions.

Listed companies can use ASX announcements to assist in dealing with disruptions or changes at short notice.



Tips for members using technology to join an AGM

- Check the AGM section of the company website to make sure you understand what you need to do to participate in the meeting using technology. Companies' share registries also have resources to assist members joining meetings using technology.
- Check that the software and operating system you are using is up to date and update if necessary.
- Make sure that your internet connectivity is sound.
- If your laptop or desktop fails during the meeting, check whether you can join the webcast of the meeting using your mobile phone.

3.1 Cyber security

Cyber threats have increased exponentially in recent years. Cyber security arrangements for technology enabled meetings should be part of a company's overall cyber security incident response plan. Companies should ensure that access to the meeting is secure and that they can identify and remove any hackers or bots during the meeting, particularly given that it is now possible for AI software to join a meeting and record or transcribe proceedings. They should also ensure that the integrity of virtual voting is protected.

Members participating through older technology or software may also be impacted by modern cyber security measures. Member communications about access and any technology requirements should be clearly set out in the notice of meeting and can also be repeated in the AGM section of the company website.


While cyber security concerns are a legitimate issue for companies to address, they should not prevent companies from using technology to hold meetings.

3.2 Where virtual participation fails

If the online component of a hybrid meeting substantively fails, meeting chairs should carefully consider whether to proceed further with the meeting. This is because the technology failure may mean that members trying to participate using the virtual technology will not be able to ask questions or vote at the meeting and the proceedings of the meeting will no longer reflect the nature of the hybrid meeting as described in the notice of meeting. In these circumstances, the chair should have power to adjourn the meeting to enable the disruption to be addressed.

The default position for substantive failures would normally be that the meeting should be adjourned. However, it may be possible in some circumstances to continue the meeting with only the members present at the physical location if there is a quorum and members wishing to participate online will not be substantially adversely affected. This would be in reliance on the provisions of the Corporations Act that allow for validation of meeting irregularities, either automatically or through an order of the Court.¹⁶ Meeting chairs should carefully consider these issues and ensure that members are aware of the company's possible responses to a substantive technology failure, such as to continue or adjourn the meeting.

¹⁶ See section 1322 of the Corporations Act.



As part of pre-meeting planning, there should be consideration of what may be done if technology is disrupted or fails, and in particular, quorum requirements that could potentially allow the meeting to continue. This will need to be reconsidered at the point technology fails, ideally with the benefit of legal advice, having regard to the particular circumstances then existing, including taking into account the following, which may be relevant to whether validation of irregularities under the Corporations Act will be available:

- the nature of the disruption or failure and how long it is expected to continue;
- the number of members affected by the disruption or failure;
- whether voting has already occurred or been lodged prior to the meeting, including proxy votes that may have already determined the outcome of some or all resolutions; and
- the costs associated with adjourning and reconvening the meeting.

Until there is specific case law on when a meeting will be validated in the event of a disruption or failure of technology, companies should seek legal advice in relation to any disruption or failure of technology.



Tip

Pre-filming addresses: Consider pre-filming addresses in case someone joining the meeting remotely loses connectivity.

3.3 Recording meetings

Many companies record AGMs and post some or all of the recording, transcripts and results of votes on their website. Some companies only post recordings of the addresses by the chair and other senior leadership or question time, but not the whole meeting.

Companies should carefully consider the legal implications of publishing any recording of a meeting.



Timeline and Checklist for AGM logistics

	Due date	Action
	No later than 6 months prior	<ul style="list-style-type: none">• Conduct a retrospective of previous AGM• If required, check the venue's room booking. Ideally provisionally book ahead for future years' AGMs• Determine if constitutional changes are required and seek advice on drafting• Determine if AGM will be physical, hybrid or virtual (if constitutionally available) and arrange for online platforms (if applicable)• Advise share registry to ensure there are no scheduling clashes
	No later than 3 months prior	<ul style="list-style-type: none">• Cross-functional team meeting to consider:<ul style="list-style-type: none">○ Chair/CEO address○ Directors retiring or standing for election/re-election○ Virtual/hybrid format – scope redundancies and need for pre-recording○ Commence Q&A preparation to support Chair/CEO○ Liaison with AV providers○ Moderation of questions○ Directors' and other voting exclusions○ Shareholder advisory vote on the remuneration report (for listed entities)• Consider how you will manage physical security at the physical AGM and whether security personnel will be needed• Determine and, if necessary, seek advice on all resolutions to be put to meeting• Review current law concerning meetings/proposed resolutions and any recent relevant changes to Corporations Act and ASX Listing Rules• Engage with proxy advisers (if applicable) and major shareholders (note that some proxy advisers have a blackout period for engagement with a company after its notice of meeting is issued)
	2½ months prior	<ul style="list-style-type: none">• Submit outline of draft AGM agenda to directors' meeting for review and all necessary approvals to finalise notice of meeting and explanatory memorandum• Draft or instruct external lawyers to prepare notice of meeting and explanatory memorandum:<ul style="list-style-type: none">○ consider voting exclusions○ consider two strikes rule• If necessary, appoint board subcommittee to review and sign-off notice of meeting and explanatory memorandum



	Due date	Action
	2 months prior	<ul style="list-style-type: none">• Ongoing review of draft notice of meeting, proxy form and other materials (for example, online meeting guide) with external lawyers and other experts or advisers, as may be required• Draft proxy/voting form in conjunction with share registry• Instruct share registry of notice of meeting printing and mailing and electronic distribution requirements and timetable• If applicable, announce AGM date and date for close of director nominations via ASX Release at least 5 business days before the close of external board nominations
	About 7 weeks prior	<ul style="list-style-type: none">• If required, lodge draft notice of meeting and other meeting documents with ASX for review (allow at least 5 business days for ASX review)• Board (or if applicable, board subcommittee) to approve notice of meeting, explanatory memorandum and proxy/voting form• Send draft notice of meeting and other meeting documents to printer to prepare proofs• Finalise details and procedures for any proxy solicitation program
	About 6 weeks prior	<ul style="list-style-type: none">• Finalise approval of notice of meeting from ASX• If required, lodge notice of meeting and other meeting documents with ASIC• Sign-off for printing• Approve wording for online user guide, notice of access, electronic dispatch of notice of meeting and explanatory material• Prepare voting exclusion register for share registry
	At least 30 days before the AGM (or potentially longer depending on constitution notice provisions)	<ul style="list-style-type: none">• Send notice of meeting or notice of access (in physical or electronic form) to members in accordance with any member elections.• If required, lodge notice of meeting and proxy form with ASX at the same time as sending notice of meeting to members commences.• Post notice of meeting, proxy form, online user guide and any other materials to company website



	Due date	Action
	2-3 weeks prior	<ul style="list-style-type: none">• Confirm physical AGM venue set-up, including:<ul style="list-style-type: none">○ audio visual requirements○ food and drink○ registration tables○ shareholder seating○ board of directors and company secretary seating○ poll counting area in event of poll○ arrangements for any product displays or samples○ security arrangements, if required• Prepare draft chair's address and meeting procedure script and send to chair for review• Prepare any additional audio visual presentations to meeting including CEO or other presentation• Include resolution wording and proxy result slides in meeting presentation• Test online platform if the meeting will be hybrid or fully virtual
	2 weeks prior	<ul style="list-style-type: none">• Ongoing review of draft chair's address, including any special voting requirements and proxy details• Contact major shareholders and institutions to obtain comments or questions on proposed AGM resolutions• Produce list of Key Management Personnel, Closely Related Parties, persons excluded from voting and associates as required by the Corporations Act and Listing Rules for certain resolutions
	2 weeks prior	<ul style="list-style-type: none">• Finalise design of shareholder voting and visitor cards with share registry• Meet with share registry to discuss AGM arrangements and any special voting conditions and any outstanding issues with the online platform if the meeting will be hybrid or fully virtual
	2 weeks prior	<ul style="list-style-type: none">• Confirm that auditors, lawyers, tax advisers and other key people have been notified and are attending the AGM
	1 week prior	<ul style="list-style-type: none">• Obtain progressive voting by proxy reports from share registry and provide feedback to chair/whole board on voting trends for key resolutions



	Due date	Action
	1 week prior	<ul style="list-style-type: none">• Confirm that proxy forms have been lodged by:<ul style="list-style-type: none">○ substantial shareholders○ directors (if applicable)○ KMPs (if applicable)• Provide to the auditor any questions received from members addressed to the auditor• Consider and draft answers to questions received from members addressed to the board and/or management• Conduct dress rehearsal of AGM including involvement of Chair, CEO and test use of technology and process to deal with questions. Use Chair run sheet to ensure meeting flows as required
	AGM Day	<ul style="list-style-type: none">• Lodge prepared announcements and addresses with ASX• ASX announcement of meeting results
	Post AGM	<ul style="list-style-type: none">• Post questions and webcast on company website• Debrief with cross-functional team and/or share registry

About the authors



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