



Bank Strategy Briefing

Ideas and analysis for community bank executives

Annual shareholder meetings during COVID-19

One of many consequences financial institutions are facing during the 2019 novel coronavirus (COVID-19) pandemic is deciding how to handle upcoming annual shareholder meetings. With Wisconsin Governor Evers' recent "Safer-at-Home" order, holding a physical shareholder meeting anytime soon is not permissible.

Financial institutions that have not yet held their 2020 annual meetings do have options. While Wisconsin statutes provide backstop rules on the conduct of annual meetings, an entity's articles of incorporation or bylaws are the primary source of such rules. While reviewing these documents carefully before deciding on a course of action is critical, the following are potential solutions:

Postpone the meeting

Whether or not you have already mailed your proxy statement, you can elect to postpone or adjourn the meeting to a later date. If you haven't mailed your proxy statement, simply have your board of directors set a new record and meeting date, and reflect those new dates in the proxy statement. Regardless of whether a certain date is prescribed in the articles or bylaws, most documents also permit the meeting to be held on "such other date as set by resolution of the board."

If the proxy statement for the meeting has already been mailed, the meeting can be postponed by sending out a notice to all shareholders of record as of the previously announced record date of the new meeting date. Under the Wisconsin Business Corporation Law (WBCL), the board will not be required to set a new record date for the new meeting date unless it is more than 120 days from the date of the original meeting. If a new record date is established, proxy statements would need to be mailed to any shareholders of record as of that new record date.

Hold a hybrid meeting

For institutions not interested in delaying their meeting, the original meeting date could be retained, but shareholders notified that the board and management will be presenting by telephone or video and shareholders are strongly discouraged from attending in person.

In this event, an alternative method of attendance would need to be offered (i.e. telephone or video conference). Except with respect to virtual meetings described below, attendance by phone would not qualify for purposes of determining a quorum or registering a vote, so it will be important for shareholders to return their proxy cards in advance of the meeting. Additionally, shareholders need to be informed that in-person attendance at the meeting will be subject to any state or local shelter-at-home directives or limits on the size of public meetings, and the ability to attend in person is not assured.

Hold a virtual meeting

The WBCL was amended in 2017 to permit shareholders to participate remotely. While this sounds great in theory, there are a number of hoops to jump through. First, the articles or bylaws would need to authorize the board to permit remote participation. Accordingly, you may need to amend your bylaws, which can generally be done by the board, to include this authority. Furthermore, under the WBCL, reasonable means must be implemented to:



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1. Verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a shareholder or proxy of a shareholder
2. Provide shareholders and proxies a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including the opportunity to read or hear the proceedings of the meeting concurrently with the proceedings
3. Maintain a record of voting or action by any shareholder or proxy of a shareholder that votes or takes other action at the meeting by remote communication

Many transfer agents offer virtual shareholder meeting services that will satisfy these requirements. Short of using one of those service providers, remote participation will be difficult to accomplish.

For more information on this topic, or to learn how Godfrey & Kahn can help, contact our Banking & Financial Institutions Practice Group.

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Bank Strategy Briefing is prepared by the Banking & Financial Institutions Practice Group at Godfrey & Kahn, S.C., Milwaukee, Wisconsin, as a service to the community banking industry. It features commentary focusing on strategic business and legal issues relevant to community banks. Each written edition contains 500 words or less. Information found in Bank Strategy Briefing is for educational and informational purposes only and is not to be construed or relied upon as legal advice.

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