

# Virtual Shareholder Meetings

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The Ministerial Draft of a Federal Law on the Conduct of Virtual Meetings of Shareholders was published in late April 2023. The law is intended to replace the existing but time-limited basis for virtual meetings - at that time for all (!) corporate bodies - established under the Covid-19 legislation. It is intended to apply to various forms of corporations, cooperatives, associations, and similar structures, but at least according to the drafting does not apply to partnerships.

The draft is flexible and offers "simple" or "moderated" virtual meetings or even "hybrid" meetings. The common aspect of all of these, however, is that the articles of association must expressly provide that a virtual general meeting can be held. If this is the case, it is also necessary to regulate whether the meetings of the shareholders are "always" to be held virtually or whether the body convoking the meeting decides on the form in which the meeting is to be held. This rule, which in itself quite strict, is "loosened" by allowing the articles of association to stipulate that a meeting may always be convened in which the individual participants can choose between physical and virtual participation ("hybrid meeting"), or again the convening body decides. This flexibility sounds nice, but in practice it will probably also cause a great amount of effort in organizing general meetings, especially in the case of meetings that must be recorded by a notary public.

It is fascinating that the draft states that it does not affect "statutory provisions or provisions in the articles of association according to which the holding of a meeting of shareholders or members of governing bodies is permissible without the physical presence of the participants". At first glance, this is surprising, because this means that provisions in the articles of association already in existence when the law comes into force will be upheld, even if they contradict the requirements of the draft. Even more interesting is the express rejection of any influence on statutory or contractual provisions concerning "meetings of board members" - according to the wording of the draft, such meetings would not be covered anyway, because the law expressly refers to "shareholders' meetings". It remains to be seen whether this provision will not serve as a basis for contesting shareholder resolutions.

The above remarks, which relate exclusively to the first paragraph of the proposed law, already show that there is something new, something vague and, in any case, a lot of work to

be done by the shareholders. Because one thing is perfectly clear. From 14.07.2023, the day of the planned entry into force, the previous " more relaxed " regulations for virtual general meetings are in any case finally passé. If the articles of association have not been amended by then, only meetings at which the shareholders meet in person (or by proxy) will be permissible...

It remains to be seen whether this will all come about as envisaged in the draft - the review period in Parliament ends on May 26, 2023.



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