

The recent Government imposed restrictions to help mitigate the impact of COVID-19 in Ireland has resulted in every business having to re-think its normal business practices. The important role of well considered and timely Board decisions has taken on particular emphasis considering the significant decisions now required by companies in what is a rapidly changing business environment.

The majority of companies, and particularly those who have adopted Companies Act 2014 (“CA2014”) compliant Constitutions, should be able to avail of the provisions contained within the CA2014 to hold Board or Committee Meetings by telephonic, video or other electronic communications. The following provides a very quick guide to the areas for consideration in setting up and holding secure and effective Virtual Board Meetings.

1 Check the company’s Constitution

- Does the Constitution of the company specifically permit the holding of Virtual Board Meetings? If not, check if default provisions of the CA2014 have not been modified / dis-applied or, for companies still operating under old Articles of Association, can be applied.
- Does the Constitution require a company to hold a physical Board Meeting in Ireland with the majority of Directors / Chairperson physically present in order to demonstrate tax residency?

2 Review and agree preferred options for holding Virtual Board Meetings

Liaise with Chairperson

- Outline options available under CA2014 and Constitution
- Set out reasons for preferred service provider, including security aspects, cost and suitability
- Agree a process to ensure all Directors (regardless of where located, Exec/Non-Exec etc.) can attend and participate in the Meeting
- Discuss Meeting management (agreeing what role Chairperson will have in terms of hosting/managing Meeting and including how discussions can be commenced, held, brought to a conclusion, how to agree decisions, etc.). It is a good idea that someone other than the Chairperson hosts the Meeting so that he/she does not have to deal with technical issues during the Meeting
- It is recommended Board Meetings are not recorded
- Propose and agree a “Virtual Board Meeting Etiquette”
- Discuss/agree the maximum length of the Meeting ensuring plenty of time for priority items (attention span for virtual Meetings is significantly less than a physical Meeting)
- Agree an agenda, allocate time slots for speakers & incorporate comfort breaks as with a physical Meeting
- Outline a proposal for circulating board papers prior to the Meeting and the presentation of documentation during the Meeting
- Agree a contingency plan in the event the Chairperson or key contributors (such as the CEO or CFO) are unable to attend at short notice (e.g. due to illness)
- Agree a back-up plan (such as dial-in-details) in the event technology fails

Communicate to all Directors

- Actions required to set up secure Meeting facilities and circulate training manuals (if required)
- Importance of logging on to the Meeting facility well in advance to allow time for any connection problems to be rectified
- Contact details for IT / Host / designated person who can be contacted in case of technical problems during the Meeting
- Agreed Virtual Board Meeting Etiquette
- Agreed contingency plan in the event of unexpected absences of key persons
- Importance of continued confidentiality (as would be the case with physical Board Meetings)
- Importance of all Board of Directors’ attendance (consider any Tax Residency factors to be addressed and communicate as appropriate)



3 Convening and Holding the Board Meeting

- Agree a method for Chairperson / Host to communicate during the Meeting (e.g. text message)
- Take a roll call at the outset to ensure a quorum is present
- Ensure agreed Virtual Board Meeting Etiquette is adhered to
- Require continued attendance unless agreed otherwise with Chairperson / Meeting as a whole
- Host to monitor participants present at the Meeting with outside presenters only being permitted for their allocated timeslot
- Host to monitor messages received from participants and communicate if necessary to the Chairperson
- Clarity on decisions taken and specific points for minuting
- Chairperson to keep the Meeting focused and on schedule
- IT support / designated person / Host to be on standby throughout the Meeting to deal with technical difficulties

4 Post Board Meeting

- Ensure Meeting securely closed
- Draft and circulate actions and Minutes
- Encourage feedback from participants to improve subsequent Meetings
- Agree/communicate how, if required/appropriate, Board Meeting papers (both soft and hard copy papers if applicable) should be destroyed

Other matters that could be considered to ensure efficient and effective decision making

- Delegation by main Board to Sub-Committee/Executive Directors
- Directors' Written Resolutions
- Agreement in principal by e-mail with decision to be ratified at subsequent Board Meeting (not ideal, greater risk of challenge if taken in this manner, should only be used at times of real urgency)

If you have any queries or require assistance in relation to arranging or hosting virtual Board Meetings please contact us on info@fcscorporateservices.com or 00353 (0)91 704818