

Companies Act provisions that don't make sense during Covid

Synopsis

In a virtual AGM, showing and counting the hands of shareholders in favour of a resolution is impossible. Sebi rules anyway require listed companies with more than 1,000 investors to offer e-voting facilities.



REPRESENTATIVE IMAGE

MUMBAI: [Virtual Annual General Body Meeting](#)

(AGMs) have made several provisions of The Companies Act redundant. Earlier this year, the Ministry of Corporate Affairs ([MCA](#)) and market regulator the Securities and Exchange Board of India ([Sebi](#)) have allowed [AGMs](#) to be conducted via video conferencing in the wake of Covid-19.

Here is a compilation of a few requirements under the Companies Act that may not make sense considering the AGMs right now are happening over the internet.

Voting by show of hands: The Companies Act gives two options to the companies when it comes to undertaking the [voting process](#). One by show of hands and the other is electronic voting. In a virtual AGM, showing and counting the hands of shareholders in favour of a resolution is impossible. Sebi rules anyway require listed companies with more than 1,000 investors to offer e-voting facilities.

Alternate Director: When a board of director of a company IS outside India for more than three months and is unable to attend AGM, companies have power to appoint an alternate director in place of the absent member. With board meetings now happening virtually, directors who are not physically present in India can also join the meeting.

Proxy shareholders: Earlier if you were a shareholder of a company and you were unable to attend the AGM, you could send someone else on your behalf. But in virtual meetings, the concept of proxy doesn't make sense.

[Postal Ballot Requirement:](#) Companies Act says voting on certain subjects such as change in the address of registered office, alteration of articles of association must be done via postal ballot. In an era where summons are being sent by regulators over email and WhatsApp, the postal ballot requirement may be done away with, say experts.

"Companies' Amendment Bill can be further amended to improve the corporate compliance system in India, in addition to decriminalization of offences. It will make the law more investor friendly and improvise India's ranking in ease of doing business" [Gaurav Pingle](#), a practising Company Secretary.

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