

# Corporate and Commercial

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This is a summary of Corporate and Commercial matters of interest.

## **Annual Meetings for Federal Corporations - Options During the COVID-19 Outbreak**

Federally incorporated corporations may be incorporated under either the *Canada Business Corporations Act* (the "CBCA") or the *Canada Not-for-Profit Corporations Act* ("NFP Act"). Each of the NFP Act and the CBCA require that the corporations hold annual general meetings of their members or shareholders each year to make governance decisions regarding the corporation (the "AGM"). Each of the CBCA and the NFP Act provide that AGM's shall be called within 15 months of the previous AGM and no more than six months after the corporation's last financial year end. As we recognize that hosting in person meetings, including AGMs, during the COVID-19 outbreak would contradict the public health advice to practice physical distancing and self-isolation, we have outlined some options for you to consider while remaining compliant with the CBCA or NFP Act, as applicable.

### **Virtual Meetings**

The corporation's by-laws may allow for the option to hold meetings, including AGMs, completely virtual using digital technologies. This is where all members or shareholders participate through a digital channel that allows all participants to speak to each other during the meeting. We suggest you check the corporation's by-laws to confirm there are no restrictions with respect to participation in this manner prior to scheduling your virtual meeting, including AGMs, or sending notice to the members or shareholders who are entitled to receive notice to such meetings.

If the corporation's by-laws do not permit for complete virtual meetings, another option is a partial virtual meeting. This is where some participants attend in-person and others participate through a digital channel that allows participants to speak to each other during the meeting. This allows for a smaller group to attend and lowering the risk of spreading COVID-19.

In both the above options, participants can vote digitally as long as it is not prohibited by the corporation's by-laws and it complies with the provisions of the CBCA and the NFP Act, including all regulations. This meaning that the corporation gathers votes in a way that allows them to be verified, tallied and presented while maintaining votes anonymously.

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If the corporation's by-laws prohibit virtual meetings all together or are silent on the matter, another option is for the board of directors to amend the by-laws to permit virtual meetings, with this change being effective until the next meeting of the members or shareholders where at the members or shareholders, would be asked to vote either in favour of this amendment to allow virtual meetings or revert back to the original by-laws where such meetings were not permitted.

## Extension

Corporations governed by the NFP Act have the option to apply to the Director appointed under that NFP Act, to extend the time for calling an AGM if the Director reasonably believes that members will not be prejudiced by this extension. If your board of directors determines that an application to extend is in the best interest of the corporation you should contact us at least 35 business days before the day on which the notice of the time and place of the meeting is to be given to members so we may assist you in this application process. Any extension granted to the calling of an AGM is typically effective for one financial year and filing fees will apply. Please note each application is reviewed on case by case basis and there is no guarantee such an extension would be granted.

Should any further information be required regarding this matter, please do not hesitate to reach out to George Dzuro @ [gdzuro@kmlaw.ca](mailto:gdzuro@kmlaw.ca) or Sheila O'Toole @ [sotoole@kmlaw.ca](mailto:sotoole@kmlaw.ca).

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This edition of Corporate and Commercial was produced and edited by the members of the Corporate and Commercial Group at **Koskie Minsky LLP**.

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