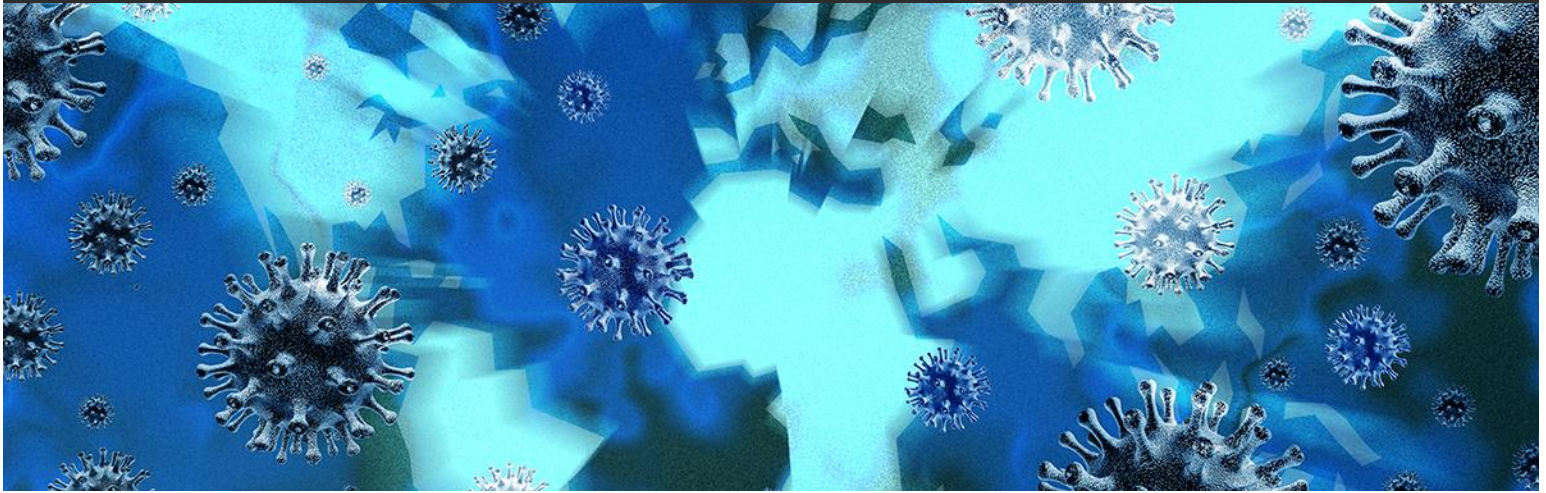


**Alert | Health Emergency Preparedness Task Force:
Coronavirus Disease 2019**



7 April 2020

Poland’s Commercial Companies Code: Holding Board and Other Meetings Made Easier

Decision making by corporate bodies of companies is a formal process, which often requires personal participation in meetings of the management or supervisory boards as well as shareholders’ meetings/general meetings. The regulation of such matters in Polish company law has thus far been to some extent incomplete and – to some extent – vague, including whether it is possible for the management board to make decisions by distant means of communication, which was not explicitly contemplated under the law. Although these issues have existed for years, they have gained new significance recently due to the restrictions resulting from a state of epidemic emergency being imposed in Poland due to the Coronavirus Disease 2019 (COVID-19) pandemic.

Operation of Corporate Bodies and Restrictions on Meetings and Free Movement of People

In connection with the expansion of the COVID-19 epidemic, on 25 March 2020 the Polish authorities imposed significant restrictions on free movement, gatherings, and meetings of people, which is particularly important for the organization of the work of a company’s corporate bodies. The prohibition on all gatherings and meetings does not apply only to the performance of professional duties, official assignments, and business activity. Free movement has been prohibited save for a few exceptions, such as satisfying basic daily needs or carrying out professional duties. The abovementioned restrictions are in force until 11 April 2020, however they may be extended.

The abovementioned restrictions rendered participation in shareholders' meetings virtually impossible unless the articles of association provided such meetings being held using electronic means of communication. So far, few companies have adopted such provisions in Poland. During the COVID-19 pandemic, the possibility of introducing relevant provisions into articles of association is also limited, as it is necessary to hold a shareholders' meeting recorded by a notary. Swift registration of such changes in the National Court Register may also be problematic due to limitations in the functioning of courts. For this reason, management boards of companies have started to consider postponing meetings until after the restrictions are lifted.

The abovementioned restrictions do not limit the possibility of holding management and supervisory board meetings, provided that such meetings constitute the performance of professional or official activities, or business activity of the participants. However, holding multi-person meetings in closed premises may not be practical as some management or supervisory board members may be affected by other factors related to the pandemic, such as the quarantine of some or all members of the corporate body.

There is also an obligation to convene and hold an ordinary shareholders' meeting of a limited liability company or an ordinary general meeting of a joint-stock company within six months of the end of the financial year (typically the deadline will therefore be 30 June).

The Previous Statutory Model of Adopting Resolutions and Holding Meetings of Corporate Bodies

The recent Polish company law regulations gave the supervisory board of a company the option to adopt resolutions by written vote, as well as using means of direct remote communication or by casting a vote in writing via another member of the supervisory board – in each case only if the articles of association so provided. However, it was not possible to elect the chair or the vice-chair of the supervisory board, to appoint a member of the management board, or to dismiss or suspend them in the abovementioned manners. Shareholders' meetings and general meetings could also be conducted by means of electronic communication (e.g., online transmission) only if the articles of association provided for it.

In the case of company management boards, the provisions of company law did not explicitly provide for the possibility of voting by written vote, by means of direct remote communication, or voting in writing via another member of the corporate body. In practice, however, it did happen that management board meetings were organized, and resolutions adopted, in this way on the basis of relevant regulations in the articles of association or management board by-laws.

Recent Changes in How Corporate Bodies Function

Changes in the rules governing how corporate bodies function, in particular regarding the statutory model for such bodies adopting resolutions, were announced along with the Polish government's response to COVID-19 pandemic in the form a comprehensive regulation known as the "Crisis Shield". Pursuant to the act amending the Act on special solutions related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them, as well as other acts, which was adopted on 31 March 2020 (Dziennik Ustaw of 2020, item 568), the changes introduced are to enable, in particular, corporate bodies to hold meetings and adopt resolutions using means of direct remote communication, **without the need to provide for such a possibility in the company's articles of association** (however, it will be possible to exclude this possibility in the articles of association). In particular, the new regulation provides that:

- shareholders' meetings and general meetings may be held using electronic means of communication, and the person convening the meeting will decide about participation in the meeting in such a manner;
- members of management and supervisory boards will be able to attend meetings of their corporate body using means of direct remote communication;
- management and supervisory board resolutions may be adopted in writing or by using means of direct remote communication, and management and supervisory board members will be able to cast their votes in writing via another member of such body;
- the abovementioned methods of supervisory boards adopting resolutions will also be applicable when adopting resolutions on the election of the chair and vice-chair of the supervisory board, appointment of a member of the management board, and dismissal or suspension of such persons.

The abovementioned changes to the provisions of the Polish Commercial Companies Code were adopted, signed into law and published on 31 March and immediately entered into force on the same date (no *vacatio legis*).

Application of the New Provisions to Shareholders' Meetings and General Meetings Convened Before the Date of their Entry Into Force

The act states that the new provisions also apply to previously convened shareholders' meetings and general meetings to the extent that the person convening the meeting may decide to allow participation using electronic means of communication, subject to the obligation to inform participants of this fact in the manner applicable to convene such meetings, no later than four days before the day of the meeting.

** This GT Alert is limited to non-U.S. matters and law.*

For more information and updates on the developing COVID-19 situation, visit [GT's Health Emergency Preparedness Task Force: Coronavirus Disease 2019](#).

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