COVID-19 Ordinance: New rules for holding a general meeting

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On March 16 2020, in view of the accelerated spread of the coronavirus, Switzerland declared an "extraordinary situation" under the Epidemic Act, causing a near shut down and allowing the government to adopt severe measures to protect the public.

By way of an amendment to the COVID-19 Ordinance 2 of 13 March 2020, which was published on 16 March 2020 (Amended COVID-19 Ordinance) the Swiss Federal Council introduced, inter alia, essentially a ban to hold public or private events. The Amended COVID-19 Ordinance entered into force on 17 March 2020 at 00.00 CET.

Ban to hold public or private events includes general meetings of companies

This extraordinary situation has also far-reaching consequences for general meetings of companies in Switzerland as the ban to hold meetings includes general meetings of companies with physical presence of their shareholders. Companies whose financial year ended on 31 December 2019 have to hold their annual general meeting by 30 June 2020.

In order to enable Swiss companies to hold their general meetings despite the current restrictions, the Amended COVID-19 Ordinance authorizes the holding of general meetings in writing, in electronic from, or by an independent proxy designated by the company.

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For Swiss companies this means:

- **General meetings with physical presence are banned until 19 April 2020.**
- **Companies which already issued their invitations to general meetings to be held on a date before or on 19 April 2020 must either postpone the general meeting or, because no physical meeting can be held, inform the shareholders on how they can exercise their voting rights.**
- **If the general meeting is not postponed, the company must notify its shareholders in writing or electronically (for example on the company's website) on how they can exercise their voting rights at the latest four days before the date of the general meeting.**
- **The company must implement respective measures so that the shareholders can exercise their voting rights.**

Currently, the ban is in force until 19 April 2020, but could be extended. Hence, if general meetings are scheduled to fall after 19 April 2020, they may still be planned as meetings with physical presence but, to be on the safe side, companies should also plan on the basis of an ongoing ban. This means that the date of the general meeting should not be before 24 April 2020, so that there is sufficient time (at least four days) after 19 April 2020 and the date of the general meeting to allow the company for the election, implementation and communication on how the shareholders can exercise their voting rights.

Finally, it should be noted that anyone who deliberately violates Art. 6 of the Amended COVID-19 Ordinance (which includes the ban to hold public or private events) shall be punished with imprisonment for up to three years or a fine.

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No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this Legal Update.

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