



Technical Accounting Alert TA 2020-015

ASIC has amended 'no action' position for AGMs

Executive summary

On 13 May, the Australian Securities and Investment Commission (ASIC) has amended the 'no action' position that was announced on 20 March 2020 by [20-068MR](#). The amendment extends the 'no action' position to both listed and unlisted entities with financial year-ends from 31 December 2019 to 7 July 2020, and to entities who are unable to hold an AGM during the 2020 calendar year.

The text of the media release is included below (source: <https://asic.gov.au/about-asic/news-centre/find-a-mediarelease/2020-releases/20-113mr-asic-to-further-extend-financial-reporting-deadlines-for-listed-and-unlisted-entitiesand-amends-no-action-position-for-agms/>).

'No action' position on holding of Annual General Meetings

ASIC has adopted a 'no action' position where public companies do not hold their Annual General Meetings (AGMs) within five months after the end financial years that end from 31 December 2019 to 7 July 2020, but do so up to seven months after year end. For public companies with 1 June 2020 to 7 July 2020 year ends, the 'no action' position also applies where holding an AGM in January or February 2021 results in the requirement to hold an AGM in the 2020 calendar year not being met.

The Act requires public companies to hold an AGM within five months of year end and at least once every calendar year. Public companies with financial years ending from 31 December 2019 to 7 July 2020 may find it difficult to hold their AGM by the statutory deadline due to the restrictions on large gatherings, travel restrictions and concerns from members about attending large group meetings given COVID-19. ASIC's no action position also allows additional time for distribution of financial reports to members prior to the AGM for those companies that have relied on our extension of time for lodgement of financial reports.

Listed entities will be required to inform the market when they rely on the extended period for lodgement. These entities may also find it desirable to explain the reasons for relying on the extended deadlines.

Companies who choose to delay their AGM should refrain from holding their AGMs in the peak holiday period in late December 2020 and early January 2021.

ASIC had previously adopted a 'no action' position where public companies hold their AGMs for 31 December 2019 year ends by the end of July 2020 (refer: [20-068MR Guidelines for meeting upcoming AGM and financial reporting requirements](#)).

Guidance on use of virtual technology for meetings

The Treasurer has issued a determination amending the Act for six months from 6 May 2020 which facilitates meetings, including AGMs, being held using one or more technologies (virtual technology) that give all persons



entitled to attend a reasonable opportunity to participate without being physically present in the same place (see the *Corporations (Coronavirus Economic Response) Determination (No. 1) 2020*).

To assist companies and responsible entities, ASIC has issued [guidance](#) setting out its views on the appropriate approach to calling and holding meetings using virtual technology and the requirements of the determination.

Reporting periods ending after 7 July 2020

ASIC will continue to monitor how market conditions and COVID-19 developments are affecting financial reporting and AGM obligations for balance dates after 7 July 2020.

'No action' position

We have adopted a 'no action' position in relation to the timing of AGMs because ASIC does not have the power to grant extensions of time to hold an AGM on a 'class basis' to all public companies.

ASIC's general policy on 'no-action' positions and their status is set out in [Regulatory Guide 108 No-action letters](#). In particular, a 'no-action' position provides an indication as to the future regulatory action that we might take and does not necessarily preclude third parties (including the Commonwealth Director of Public Prosecutions) from taking legal action in relation to the same conduct or conduct of that kind. Nor does it prevent a court from holding that particular conduct infringes the relevant legislation. ASIC does not represent that the conduct covered by the 'no-action' position will not be held to contravene the relevant legislation. Nor does ASIC undertake to intervene in an action brought by third parties in respect of such conduct.

Further information



If you wish to discuss any of the information included in this Technical Accounting Alert, please get in touch with your Grant Thornton Relationship Partner or a member of the National Assurance Quality Team at national.assurance.quality@au.gt.com.