

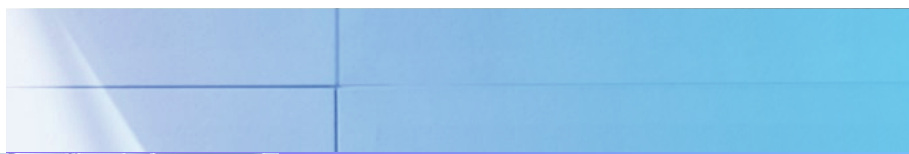
Considerations on the future of the AGM

With the COVID-AGM exception being concluded and the revised Swiss stock corporation law allowing new AGM formats, the future of the AGM is up for discussion. While 2023 will, absent COVID, see a return back to the old in-person format by almost all companies, it is yet unclear what format will emerge in the future. Will we go back and stay with the old format, or will we go digital and see virtual-only meetings? This article summarizes key findings from a SWIPRA analysis of shareholder AGM participation in the largest 100 SPI® companies pre- and post-COVID and the 2022 SWIPRA Survey on Corporate Governance & Sustainability in Switzerland.

Future Formats

The COVID AGM format has eliminated all public observation of AGMs and the direct interaction between shareholders and the board of directors and allowed shareholder voting only through the independent proxy. Interactions with shareholders were limited to private engagement meetings and shareholder platforms provided by some companies. With the revised stock corporation law, companies can now choose between two different formats to conduct their future AGMs:

- 1) Meetings with a physical venue (“physical meetings”):** The basic version is the format that has been in place prior to the COVID-regime, with shareholders attending in person and/or participating through the independent proxy. This format may include (i) broadcasts of the in-person AGM to allow a broader group of people to passively participate in the event (which was done by some companies already in the past) or, and this is new, (ii) online active shareholder participation with the right to speak, and (iii) even vote as if present in the physical venue (various “hybrid” versions left open by the new legislation). The independent proxy remains in place for all shareholders opting to cast their votes ahead of the meeting.
- 2) Meetings without a physical venue (“virtual meetings”):** These meetings take place virtually only. Company representatives and shareholders participate online and everything from voting, to interactions, to shareholder questions and proposals to amend agenda items need to happen virtually and real-time. The independent proxy remains in place for all shareholders opting to cast their votes ahead of the meeting.





The discussion about which format to choose revolves mainly around accessibility, personal interactions, IT security and not least around organizational effort. While the latter two points need to be clarified by the legal profession and the company's internal organization, respectively, an analysis of shareholder behavior around the COVID AGM sheds some light with respect to the first two discussion points.

Participation around COVID

Comparing the median shareholder participation in the 100 largest companies of the SPI®, we see an almost unchanged voting presence of about 70% on average (70.7% pre COVID at AGMs 2019 and 69.1% post COVID at AGMs 2022). In light of past developments with median shareholder participation constantly growing each year between 2010 and 2019 from 52.5% to 70.2%, this seems quite remarkable.

Interestingly, it can also be observed that median participation decreased almost twice as much in companies that held their 2022 AGM again in person rather than under the COVID regime (-2.1 %-points vs. -1.1%-points). Hence, while it seems that COVID has made shareholders generally more reluctant to vote at AGMs at the margin, there is also evidence that shareholders who used to attend AGMs and vote in person prior to COVID are reluctant to come back. Indeed, for these companies, the average number of shareholders participating physically at the AGM has decreased by 21.5%, from 758 in 2019 to 595 in 2022. Thus, the reduction of participation in those companies organizing again an in-person AGM 2022 may well be due to a lower participation of minority shareholders that generally attend physically. It is not clear, whether the shareholders that decided to not attend in person in 2022 will return in the future when COVID may not be such an imminent issue anymore.

A closer look at those companies that kept the COVID-format in 2022 is also insightful. In their AGM invitations, companies differ notably in the way they interact with their shareholders. Some companies only provide the formally required information on the agenda, others offer their shareholders additional contact details in case they have any questions ahead of the AGM ("passive encouragement") and still others encourage their shareholders to ask questions electronically ahead of the AGM ("active encouragement"). The level of interaction in the AGM invitation seems to be reflected in how shareholders made use of the option to ask questions: the average voting participation in those companies providing the formal information only decreased by 1 percentage point while in those companies with passive encouragement it remained almost unchanged (+0.3 percentage points). Most notably, in companies with an active encouragement in the AGM invitation, the participation increased by 1.5 percentage points. Hence, the level of shareholder participation does not only seem to depend on the chosen format, but also on how a company reaches out and encourages its shareholders to ask questions.

Market views

In the market, opinions remain diverse. Amongst the largest institutional investors, many shared the opinion in 2022 that virtual-only meetings should be avoided so that boards can be seen and present at AGMs physically, discharged of their accountability in person and interact in public with their shareholders. This more imminent exchange is expected to reduce the distance between the board of directors and the company's retail shareholders and increase board members' feeling of responsibility towards shareholders in public. Not least because of this view of many institutional shareholders, already a third of the AGMs of the FTSE 350 companies in the UK held in the first half of 2022 were hybrid while only 1% were virtual only (Source: White & Case, 2022).



In Switzerland, the views regarding the AGM format seem to be in a transition phase. For the moment, most companies plan to retain the old physical format to best cater to their existing shareholder group and continue to make use of their AGM as important shareholder-relations and communications platform.

However, this may well change going forward. In the recently published SWIPRA Survey 2022 (see Box for more details), 58% of companies indicated that they intend to ask shareholders at their 2023 AGMs to amend their articles of association with the possibility of the virtual format for future AGM's. This is highly welcomed by Swiss asset managers (71%), but non-Swiss asset managers (42%) and pension funds (48%) are less enthusiastic. The critical view, specifically from the non-Swiss asset managers, is largely a misunderstanding of the safeguards around shareholder rights in the virtual meeting setting. Once it becomes clear to them that shareholder rights remain the same, no matter the format (physical or virtual), their support is expected to increase substantially. It is therefore advisable that companies intending to amend their Articles of Association towards the possibility of virtual AGMs to reach out actively to their main shareholders for clarification.

Regarding instruments supporting the general organization of AGMs, about half of the participants see a benefit in a written online Q&A prior to the AGM, but only 27% of issuers and 36% of asset managers consider this a "must have" feature (see Figure 1). Likewise, slightly less than half of the participants consider an online broadcast of the AGM, without the possibility to vote or ask questions online, nice to have, but only 23% of companies and 30% of asset managers indicated that this is a must have.

In terms of organizational preferences for future AGMs, views amongst companies and shareholders vary. Slightly more than half of the asset managers (52%) consider a virtual format including electronic real-time voting a "must have," only 30% consider the physical AGMs a "must have." This clear preference is not visible amongst corporates. Only 15% consider a virtual meeting including electronic real-time voting to be a "must have, while 26% of companies favor physical meetings with on-site voting. On the other hand, 27% of asset managers and 18% of companies indicated that physical AGMs are "not required." Hence, the acceptance for AGM forms other than a physical meeting seems to increase.

AGM preference

Survey 2022

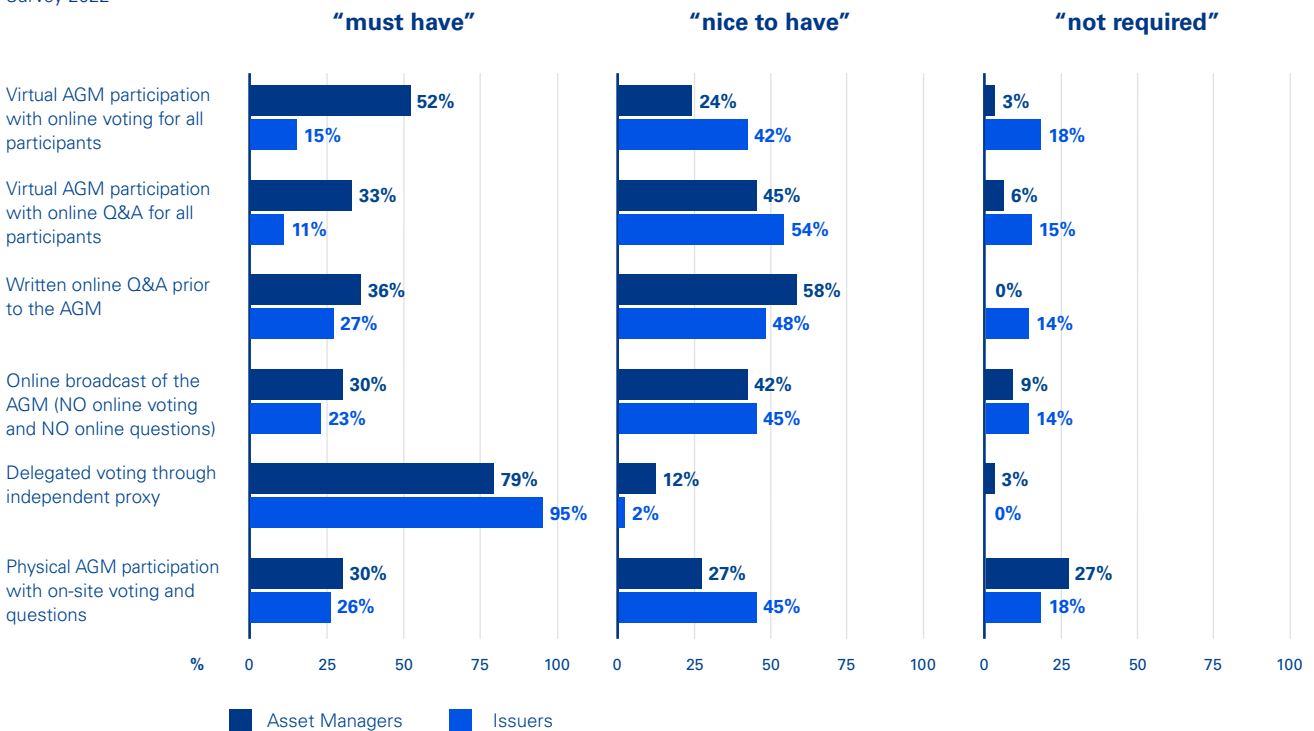


Figure 1: Preferences for future AGMs, SWIPRA Services Corporate Governance and Sustainability Survey 2022

The hesitancy of companies to move towards a virtual AGM format often is linked to legal concerns, the worry that a virtual format greatly facilitates activist investor activities and similar actions that will be difficult to control in the virtual format. Often, companies also fear to lose the in-person contact with retail shareholders. The former two worries will be settled by increased understanding of the legal practice in virtual meetings. A possibility to overcome the latter fear is by introducing a new in-person event, tailored towards minority shareholder needs and with management and the board of directors present. A hybrid format with live-voting possibility for in-person as well as virtual AGM participants is increasingly seen critically by companies as providing this flexibility to shareholders comes with a sizeable additional effort while benefits largely remain unclear at this point.

Hence, the question remains: Will we go back and remain with the old, physical-only format? Will we see virtual-only meetings, complemented with non-formal shareholder events? Or will companies have to offer the full optionality with the possibility of virtual and physical attendance? The data from the past three years seems to imply that in-person participation is on the decrease while virtual participation can to some extent be influenced by how actively the communication with shareholders is done. For sure, the advances in technology cannot be ignored and a virtual format may be the most shareholder-friendly version as international shareholders are given the possibility to easily attend as many AGM's as possible without having to travel. Companies now have the full flexibility about how they want to organize their AGMs. It is advisable to assess the views of their shareholders and to embed the AGM in their overall communication and stakeholder management strategy.



Barbara A. Heller
Managing Partner
SWIPRA Services AG



Christoph Wenk Bernasconi, PhD.
Partner
SWIPRA Services AG

About the SWIPRA Survey 2022

The SWIPRA Survey is conducted in collaboration with a team of researchers from the Institute of Banking and Finance at the University of Zurich. KPMG has been supporting this survey since 2021. All companies listed on the Swiss Performance Index SPI® as well as institutional shareholders from Switzerland and abroad were invited to participate in the 10th SWIPRA survey on corporate governance in Switzerland. During the survey period (September/ October 2022), 82 Swiss companies listed on the SIX Swiss Exchange and 75 institutional asset managers and asset owners from Switzerland and abroad participated. More information available here: www.swipra.ch/survey

This article is part of KPMG's Board Leadership News. To receive this newsletter three times per year, please **register here**.

About the KPMG Board Leadership Center

The KPMG Board Leadership Center offers support and guidance to board members. We equip you with the tools and insights you need to be highly effective in your role, enabling you to focus on the issues that really matter to you and your business. In addition, we help you to connect with peers and exchange experiences.

Learn more at kpmg.ch/blc

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received, or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. The scope of any potential collaboration with audit clients is defined by regulatory requirements governing auditor independence. If you would like to know more about how KPMG AG processes personal data, please read our [Privacy Policy](#), which you can find on our homepage at www.kpmg.ch.

© 2022 KPMG AG, a Swiss corporation, is a subsidiary of KPMG Holding AG, which is a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.