

Information



Effective Date: March 16, 2020

Identifier: No. CU0061INF

Annual Meeting Requirements: Credit Unions and Insurance Companies

Ontario-incorporated credit unions and insurance companies are subject to statutory requirements with respect to holding annual member meetings. In light of the coronavirus pandemic and related public health concerns, the Financial Services Regulatory Authority of Ontario (FSRA) is aware that some credit unions and insurance companies are considering how to adhere to these requirements while addressing these public health concerns. **Credit unions and insurance companies should explore all possible options to enable them to comply with annual meeting requirements without potentially compromising the health of their members/shareholders and employees.** This Information¹ provides guidance on this matter.

¹ Information Guidance is one of the four types of guidance that may be issued under FSRA's [Guidance Framework](#). Information Guidance sets out FSRA's views on a topic without creating new compliance obligations for regulated entities. For more details, see <https://www.fsrao.ca/regulation/guidance/fsra-guidance-framework>.

Requirements for Ontario Credit Unions to Hold Annual Meetings of Members

Subsection 212(2) of the *Credit Unions and Caisses Populaires Act, 1994* (CUCPA) requires credit unions to hold annual meetings of members no later than 120 days after the end of the credit union's last completed financial year.

Section 217.5 of the CUCPA enables a credit union to use digital platforms, teleconferencing or other electronic means for holding such meetings, provided that such means are not prohibited by a credit union's articles or by-laws.

If a credit union's articles or by-laws permit a members' meeting to be held electronically or by teleconference, notification of the meeting should indicate that the meeting is being held electronically or by teleconference, and should include details regarding how members can participate.

If a credit union's articles or by-laws do not permit it to hold meetings of members electronically or by teleconference, the Directors may pass a written resolution, pursuant to Section 105 of the CUCPA, to amend the credit union's by-laws or articles of amendment pursuant to Section 311 of the CUCPA, to permit the holding of a meeting through the use of digital platforms, teleconference or other electronic means. The amendment must be approved by a special resolution of members, which could occur at an electronic or teleconference meeting of members, provided that approval of the resolution is made retroactive to the date when the articles of amendment or by-law amendment was first made by the credit union's Board of Directors.

Credit unions should also follow the decision-making processes and protocols set out in their business continuity plans that address circumstances when in-person meetings are not possible. FSRA will consider the current public health concerns when determining how it exercises any discretionary powers that it has under the CUCPA. Please advise your FSRA relationship manager at your earliest convenience if you may require FSRA to exercise such discretion to facilitate processes and protocols set out in your business continuity plan.

Extension of Time Limit for Holding Credit Union Annual Meetings

Subsection 212(3) of the CUCPA permits the Chief Executive Officer of FSRA (CEO), on application by a credit union, to authorize a credit union to hold its annual meeting of members on a date that is more than 120 days after the end of its last completed financial year, if the extension of time is considered to be reasonable in the circumstances.

Any applications to the CEO under subsection 212(3) of the CUCPA will be considered on a case-by-case basis. In considering such applications, the CEO will take into account current recommendations from Public Health Ontario, available at publichealthontario.ca. Any such applications made by a credit union should be submitted through the credit union's FSRA Relationship Manager.

Timely reporting to members is essential in ensuring effective democratic control by a credit union's membership, a key co-operative principle under which credit unions operate. Given both the importance of timely reporting to members and the uncertainty around the length of time that the current public health concerns regarding large in-person meetings may continue, credit unions should avail themselves of the alternatives to in-person meetings that are contemplated in Section 217.5 of the CUCPA, rather than seeking to rely solely on extensions of the date for holding annual meetings. If necessary, credit unions should take required steps to amend their articles or by-laws to facilitate such alternatives. Any application for an extension of the date for holding a credit union's annual meeting should describe the steps that the credit union is taking in order to arrange to conduct the meeting under Section 217.5.

Requirements for Ontario Incorporated Insurance Companies to Hold Annual General Meetings

Mutual and stock insurance companies are incorporated in Ontario under the *Corporations Act*, RSO 1990 (*Corporations Act*).

Subsection 159(1) of the *Corporations Act* requires a meeting of the shareholders and members for the election of directors within the first 3 months of every year at such time and place as the by-laws of the corporation prescribe.

Subsection 125(1) of the *Corporations Act* permits corporations to hold their annual meetings by teleconference or electronic means, unless the by-laws provide otherwise. However, Ontario-incorporated insurance companies are exempt from this provision, and cannot rely on it to hold their annual meeting by teleconference or electronically.

Ability to Obtain Court Order for Insurer's Electronic or Teleconference Meeting

Section 297 of the *Corporations Act* allows a director, shareholder or member of an Ontario-incorporated insurance company to apply to the court for an order allowing the insurance company to hold a meeting of its shareholders and members by teleconference or electronically, if it is not practical for the insurance company to hold its annual meeting in person. Obtaining such a court order would enable an insurance company to satisfy the above-noted requirements of subsection 159(1) of the *Corporations Act*.

FSRA supports the use of Section 297 to reduce public health risk and to achieve the important objective of reporting to shareholders at an annual meeting and ensuring an opportunity for shareholder democracy. Insurers governed by the *Corporations Act* are encouraged to seek a court order on an urgent basis under Section 297 to hold their meeting electronically or by teleconference while the public health risk continues with regard to holding in-person annual general meetings.

Guidance on Electronic, Teleconference and Digital Meetings

FSRA expects that annual meetings held electronically, digitally or by teleconference by Ontario-incorporated credit unions or insurance companies will be conducted according to certain principles, which include:

- **Broad member/shareholder participation in annual meetings should be valued and encouraged.** Ontario-incorporated credit unions and insurance companies incorporating technology into their annual meetings should use it as a tool for broadening, not limiting, member/shareholder meeting participation. If an electronic, digital or teleconference option is used, the type of option should facilitate the opportunity for remote attendees to participate in the meeting to the greatest extent possible.
- **Member/shareholder meetings should promote equitable and equal treatment of all meeting participants.**
- **Opportunities for meaningful engagement between members/shareholders and directors should be provided.** Ontario-incorporated credit unions and insurance companies, and their boards, should facilitate meaningful engagement of members/shareholders with board members, as they consider time and cost factors. Member/shareholder meetings held electronically or by teleconference should provide the same opportunities for questions and dialogue as an in-person meeting.
- **Ontario-incorporated credit unions and insurance companies should communicate the benefits of an electronic or teleconference meeting to members/shareholders.** Ontario-incorporated credit unions and insurance companies should communicate clearly with their members/shareholders before moving to electronic or teleconference meetings in order to ensure that members/shareholders understand how they can meaningfully participate.

FSRA also supports the following best practices for member/shareholder meetings held electronically or by teleconference for Ontario-incorporated credit unions and insurance companies:

- 1. Accessing the meeting:** Members/shareholders should be given clear instructions regarding how to access the meeting electronically or by teleconference, including any device, web browser or internet connectivity requirements.
- 2. Submitting questions:** Members/shareholders should be given clear direction regarding how questions can be submitted, and whether and to what extent any limits will be placed on any time or content limits to questions.
- 3. Technical assistance:** Members/shareholders should be provided with a contact for any technical assistance required before or during the meeting.
- 4. Rationale for holding meeting electronically, digitally or by teleconference:** Members/shareholders should be provided with the reasons the annual meeting is being held electronically, digitally or by teleconference instead of in person (e.g., public health concerns relating to the coronavirus pandemic).
- 5. Attendance and voting:** Direction should be provided regarding how membership will be confirmed for participation at the meeting, how voting will be achieved, and how individual member/shareholder attendance will be recorded.