

16 April 2020

COVID-19 series: Singapore updates

Further update on AGMs in Singapore



This is an update to our article "COVID-19 series: Singapore updates, Update on AGMs in Singapore" that was published on 9 April 2020.

The COVID-19 (Temporary Measures) (Alternative Arrangements for Meetings for Companies, Variable Capital Companies, Business Trusts, Unit Trusts and Debenture Holders) Order 2020 ("**Order**") was issued On 13 April 2020. Pursuant to the Order, the alternative arrangements for meetings as noted in our article dated 9 April 2020, are now clarified and elaborated upon. On 13 April 2020, the Accounting and Corporate Regulatory Authority, Monetary Authority of Singapore and the Singapore Exchange Regulation released Additional Guidance on the Conduct of General Meetings During Elevated Safe Distancing Period ("**Further Guidance**"), which contains a checklist for companies' reference. SGX also released an updated FAQ on the holding of general meetings.

The alternative arrangements apply to any meeting convened, held, conducted or deferred:

- (i) during the period commencing 27 March 2020 and for as long as either or both of the COVID-19 (Temporary Measures) (Control Order) Regulations 2020 and the Infectious Diseases (Measures to Prevent Spread of COVID-19) Regulations 2020 are in force, which as at current date is up to 4 May 2020 ("**Control Period**"); or
- (ii) during the period of 30 days after the end of the Control Period, provided that notice of the meeting was given during the Control Period.

The Order is permissive, not mandatory. AGMs can still be held in accordance with existing law or legal instrument, if doing so would not breach prevailing safe distancing measures. Entities which are unable to comply with the alternative arrangements in the Order, or the requirements under existing law or their legal instruments, should consider deferring their meetings.

The Order and Further Guidance have provided for the following alternative arrangements for companies conducting their AGMs during the relevant period mentioned above:

	SGX-listed Companies	Non-listed Companies
Conducting the AGM	<ul style="list-style-type: none"> ▪ AGMs should be held by electronic means at no costs to shareholders. ▪ “Electronic means” must at least allow: <ul style="list-style-type: none"> • Shareholders to contemporaneously observe the proceedings of the meeting by audio and video means (e.g. “live” webcast); and • Shareholders to contemporaneously observe the proceedings of the meeting by audio means only (e.g. a telephone number). 	
	<ul style="list-style-type: none"> ▪ Persons, who would have been able to be appointed as proxies by relevant intermediaries under Section 181(1C) of the Companies Act (Cap. 50) (“CA”), such as CPF and SRS investors, must be given the same extent of rights as shareholders. 	Not applicable.
Auto-exemption for physical attendance	<ul style="list-style-type: none"> ▪ The Ministry of Trade and Industry (MTI) grants an automatic time-limited exemption to SGX-listed companies to have temporary operations in the same physical location for the purpose of holding a general meeting, provided that: <ul style="list-style-type: none"> • the number of persons at the same physical location does not exceed six (6) (e.g. the chairman of the AGM, the CEO, the company secretary, a cameraman or other technical administrator, the share registrar or the scrutineer); and • the arrangement at the physical venue must comply with relevant safe distancing measures that are in place. ▪ The company must notify MTI of the date, time and venue of the meeting, by submitting a notification for time-limited exemption, no later than one day before the conduct of the general meeting, via https://covid.gobusiness.gov.sg. 	Not applicable.
Giving of notice	<ul style="list-style-type: none"> ▪ Notice of the AGM should be published on SGXnet and on the company’s website. 	<ul style="list-style-type: none"> ▪ Notice of the AGM should be sent by email to all members at their respective email addresses notified to the company and published on the company’s website (if available).
Notice period	<ul style="list-style-type: none"> ▪ All notices must be sent to shareholders at least 14 calendar days (or 21 calendar days, where special resolutions are proposed) before the meeting. In each case, the notice period excludes the date of the notice and the date of the meeting. ▪ SGX-listed companies are strongly encouraged to provide at least 21 calendar days’ notice to shareholders. 	
Contents of notice	<ul style="list-style-type: none"> ▪ Notice of the AGM must set out the following: <ul style="list-style-type: none"> • how the AGM can be electronically accessed (e.g. link to access the live webcast) and any other ancillary information (e.g. whether pre-registration is required); 	

	SGX-listed Companies	Non-listed Companies
	<ul style="list-style-type: none"> • how to access any documents that are to be tabled at the AGM or information relating to the general meeting; • how to submit questions ahead of the meeting and timeframe for submission; • how they can cast their votes (e.g. appointing the chairman of the AGM as proxy). 	
Laying of documents	<ul style="list-style-type: none"> ▪ Documents to be tabled at the AGM must be published on SGXnet on the company's website. 	<ul style="list-style-type: none"> ▪ Documents to be tabled at the AGM should be sent electronically with the notice of the AGM in accordance with the CA and the company's constitution.
Matters to be raised in advance	<ul style="list-style-type: none"> ▪ Shareholders should raise matters at least 72 hours prior to the AGM. Responses to queries should be posted on SGXnet or the company's website. 	<ul style="list-style-type: none"> ▪ Shareholders should raise matters within a reasonable time prior to the AGM.
	<ul style="list-style-type: none"> ▪ Shareholders should submit their questions by electronic means or by post. ▪ Substantial and relevant queries should be addressed at or before the AGM by electronic means. As much as possible, this should be before the closing date for the lodgement of the proxy forms to facilitate shareholders' votes. 	
Attendance at meeting	<ul style="list-style-type: none"> ▪ The Board of Directors and the statutory auditors should attend the AGM (this can be by electronic means) 	<ul style="list-style-type: none"> ▪ Directors and auditors may attend by electronic means.
Quorum	<ul style="list-style-type: none"> ▪ Two (2) members (or one (1) if permitted by the company's constitution) are sufficient to form quorum. ▪ Member attendance will have to be verified by the share registrar of the company or company secretary, and acknowledged by the chairman of the meeting. 	
Voting by proxy	<ul style="list-style-type: none"> ▪ A company may provide for members to vote by appointing the chairman of the AGM as their sole proxy and for the proxy form to be submitted by post or electronic mail. For SGX-listed companies only, CPF and SRS investors should be informed that if they wish to vote, they should approach their respective CPF Agent Banks or SRS Operators to submit their votes at least seven (7) working days before the AGM. ▪ The proxy forms should indicate how the shareholders wish to vote on the resolutions. ▪ Proxy forms delivered before 13 April 2020, and which appoint another person other than the chairman of the AGM, may be treated by the company as appointing the chairman of the AGM if (i) the member indicated how to vote on each resolution; and (ii) the member has been given the opportunity to withdraw the appointment and has not withdrawn the appointment. ▪ Alternatively, if the company's constitution provides for remote electronic voting, this can be carried out provided that there are necessary safeguards to validate votes are in place. 	
Minutes of AGM	<ul style="list-style-type: none"> ▪ AGM minutes have to be published on SGXnet and the company's website within one month after the AGM. ▪ AGM minutes should record substantial and relevant comments or queries from shareholders relating to the agenda of the AGM, and responses from the directors and management. 	<p>Not applicable.</p>

Each week, new legislative and regulatory developments arise, resulting in further implications for businesses. This article has identified and addressed pertinent issues relating to the conduct of AGMs that have arisen during the COVID-19 period.

This article was written by Virtus Law LLP (a member of the Stephenson Harwood (Singapore) Alliance). For more information, please do not hesitate to contact any of the team at Stephenson Harwood (Singapore) Alliance. We remain committed to assisting our clients during this challenging period.

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