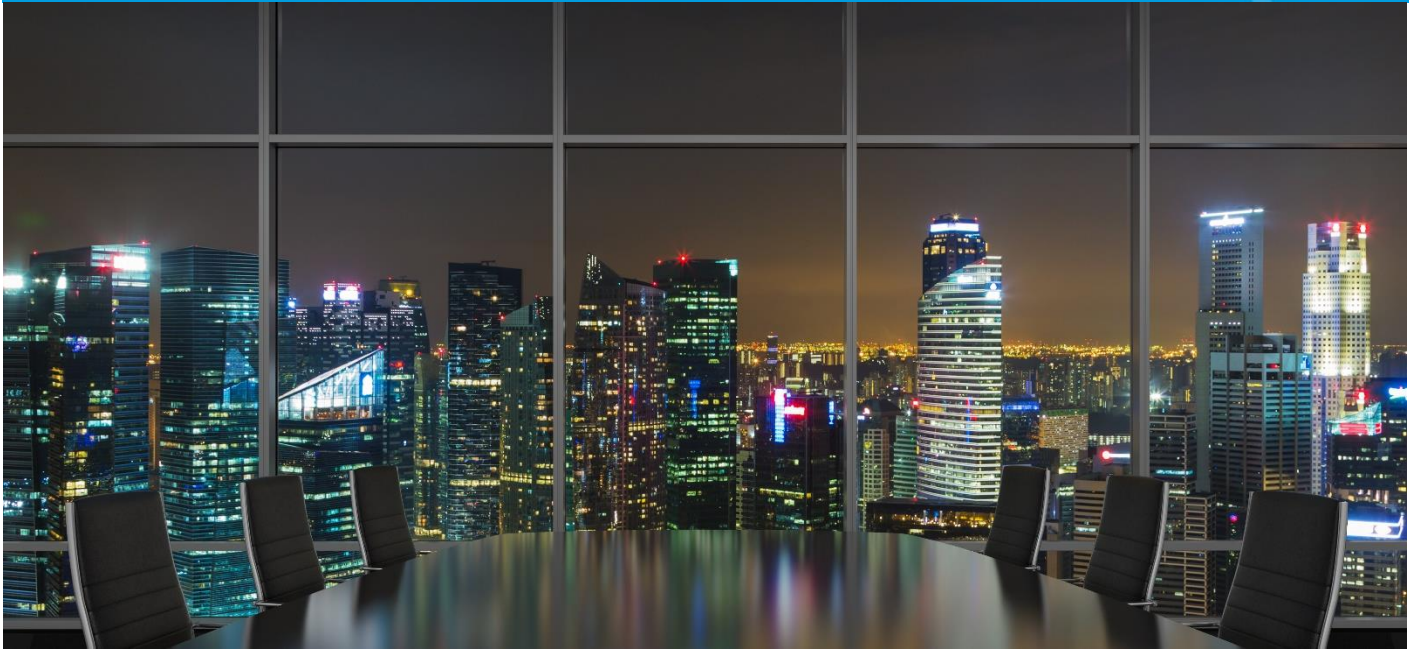


April 2020

COVID-19 series: Singapore updates

Update on AGMs in Singapore



As the COVID-19 situation continues to develop in Singapore, the laws and regulations governing businesses and their activities are constantly being updated to address business continuity and conduct issues. Businesses will need to stay abreast of these updates, and be mindful of ancillary issues that may arise from new measures being put in place.

This article is the first in a series of updates aimed at providing a snapshot of issues that businesses should actively consider in the current climate. In this article, we will discuss the implications of the COVID-19 pandemic on the holding of annual general meetings ("**AGMs**") by Singapore companies.

Notable relevant legislation/regulations

27 March 2020

Infectious Diseases (Measures to Prevent Spread of COVID-19) Regulations 2020: prohibits certain events and activities and limits attendance for non-prohibited events to ten (10) individuals

3 April 2020

the Multi-Ministry Task Force introduced an additional round of heightened safe distancing measures from 7 April 2020 until 4 May 2020 ("**Circuit Breaker Measures**")

9 April 2020

SGX updates its FAQs on the automatic time extension to hold AGMs

31 March 2020

Singapore Exchange Regulation ("**SGX RegCo**"), the Monetary Authority of Singapore ("**MAS**") and Accounting and Corporate Regulatory Authority ("**ACRA**") issued a joint statement, providing updated guidance for listed issuers on safe distancing measures when conducting general meetings

7 April 2020

- COVID-19 (Temporary Measures) (Control Order) Regulations 2020 ("**Circuit Breaker Regulations**") came into force: this details the Circuit Breaker Measures and will remain in force until 4 May 2020
- COVID-19 (Temporary Measures) Act 2020 ("**COVID-19 Act**") came into force: provides for temporary measures for conduct of meetings
- SGX and ACRA announce automatic extension of AGM deadline

Following these developments, listed and private companies in Singapore are to consider two aspects of conducting their AGMs:

- a) when to convene the AGM; and
- b) how to conduct the AGM in line with safe distancing requirements.

When to convene the AGM

Private Companies	SGX-listed Companies
<p>On 7 April 2020, ACRA announced:</p> <ul style="list-style-type: none"> (i) AGM deadline: an automatic 60-day extension of time for all Singapore companies whose AGMs are due during the period 16 April 2020 to 31 July 2020. Companies that had previously been granted extension of time to hold their AGMs within this period will also be given a further 60 days of extension from the last date of extension. (ii) AR filing deadline: an automatic 60-day extension of time for all Singapore companies whose annual return filing due dates fall within the period 1 May 2020 to 31 August 2020. <p>The above extensions are automatic and there is no need for these companies to apply for the extension of time with ACRA.</p>	<p>In addition to the extensions granted by ACRA, the SGX RegCo announced on 7 April 2020:</p> <ul style="list-style-type: none"> (i) AGM deadline: the grant of an automatic 60-day extension for SGX-listed companies, whose financial year end ("FY-end") is on or before 31 March 2020. (ii) Annual report deadline: annual reports to shareholders and the SGX shall be issued at least 14 days before the date of the AGM, except for companies with a FY-end of 31 December 2019, which will still need to issue their annual reports by 15 April 2020. <p>Although the extension is automatic, listed companies will still need to notify SGX RegCo via email and announce via SGXNet, the following:</p> <ul style="list-style-type: none"> (i) their relevant FY-end and the indicative timeline to convene their AGM; and (ii) the Board of Directors' confirmation that the time extension will not be in contravention of any laws and regulations governing the company and its constitution.

How to conduct the AGM in line with the safe distancing requirements

Alternative arrangements for meetings

Companies were previously concerned with conflicts in attendance requirements among (i) written law; (ii) the company's constitution; and (iii) the Ministry of Health's safe distancing measures. This has been addressed in section 27 of the COVID-19 Act, which empowers the government to prescribe alternative arrangements for any meeting or class of meetings for which personal attendance is required under any written law or legal instrument. Notably, section 27 of the COVID-19 Act applies retrospectively from 27 March 2020.

Among others, the possible alternative arrangements that may be prescribed include the provision for:

- a) the quorum of a meeting to be reduced to a specified number;
- b) a meeting to be held and conducted via electronic means such as video conferencing or tele-conferencing;
- c) notices for a meeting to supersede any previous notice that may have been given;
- d) questions tabled at a meeting by electronic communication and responses to such questions being communicated by electronic means;
- e) a meeting to be deferred; and
- f) any other measures that the government considers necessary or expedient.

Conduct of AGMs

While the Circuit Breaker Measures are in place, companies should consider adopting the following measures:

- a) **Webcasting the AGM:** A live stream of the event should be set up, and audio feeds should be put in place to allow Shareholders to participate in the AGM via video-conferencing or tele-conferencing.
- b) **Proxy voting:** Shareholders should be encouraged to vote by proxy (e.g. appointing the Chairman as their sole proxy) and be allowed to submit the proxy form electronically.
- c) **Opportunity to ask questions in advance:** Shareholders should be allowed to submit questions to the company in advance of the AGM (e.g. this can be done in conjunction with the deadline laid out for proxy voting). The company should address such queries at the AGM (which is broadcast live to its shareholders) and through its website or on SGXnet.
- d) **Materials to be provided by electronic means:** The annual report or financial statements of the company should be provided to shareholders via electronic means, instead of hard copy.
- e) **Virtual Q&A and sharing sessions:** The company may consider organising virtual sessions before the AGMs to provide shareholders with a forum to ask questions and engage with the directors/management.
- f) **Clear notice on alternative arrangements:** The company should ensure that proper and sufficient notice is given to shareholders on the alternative arrangements that will be made in respect of all aspects of the AGMs.
- g) **Publish minutes of the AGM (for public companies only):** After the AGM, publicly-listed companies should publish minutes of its AGM on its website, including responses from management and board of directors to shareholders' queries and comments as provided in the Code of Corporate Governance 2018.

AGM Facilitation Grant

In addition, SGX-listed companies may apply for an AGM Facilitation Grant of up to S\$5,000 from SGX to defray additional costs incurred in hosting AGMs between 16 March 2020 and 15 March 2021 due to COVID-19. These could include, amongst others, expenses incurred to book additional meeting rooms and additional teleconference lines, implement webcast or other virtual solutions, or rent additional equipment to manage healthcare screening entry and contact tracing.

Declaration of dividends

Pending the passing of the COVID-19 Act, many companies were unable to hold shareholder meetings, including AGMs, to obtain shareholder approval to undertake a proposed course of action by the company, including the approval of the final dividend. This in turn meant that payment of final dividends for the financial year is deferred.

In respect of a SGX-listed company that has already announced a dividend payment but has to postpone the payment date due to a postponement of the AGM, SGX has clarified that the company can release a replacement dividend announcement providing for the new payment date. The latest date that such a replacement announcement may be made is two (2) market days prior to the Ex-Dividend date.

With the enactment of section 27 of the COVID-19 Act, companies are encouraged to hold their AGMs using the alternative arrangements discussed above and without delay, to minimise the uncertainty and disruption brought to the companies by the COVID-19 situation. Dividend payments may provide crucial cashflow to investors. On 25 March 2020, the Securities Investor Association Singapore ("**SIAS**") also provided guidance on AGMs during COVID-19, noting that companies which are able to declare dividends should do so and not hold back. Additionally, a company that plans to defer its AGM but wishes to declare and pay out dividends before the deferred AGM, may (subject to its constitution and specific circumstances applicable to it) opt to declare an interim or special dividend prior to the date of the deferred AGM.

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. Nevertheless, we would like to highlight that this article does not, and is not intended to constitute legal advice. Rather, it is for general informational purposes only.

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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