

Shifting sands — Holding AGMs in the midst of the COVID-19 pandemic

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Introduction

The Ministry of Health (MOH) released new measures on 24 March 2020 to further minimise the spread of COVID-19. These measures include the deferral or cancellation of all events and mass gatherings, such as conferences, regardless of size. This is a tightening of previously announced measures limiting events and gatherings to less than 250 participants.

As many companies listed on the Singapore Exchange and Securities Trading Limited (SGX-ST) have their financial year-end set as 31 December, such companies will, unless an extension has been obtained, be holding their annual general meeting (AGM) in April this year. These issuers will need to ensure compliance with the MOH's mandatory safe distancing measures, which will directly impact the physical attendance of shareholders at these up-coming AGMs.

We set out in this article, some measures that issuers can consider putting in place in order to ensure compliance with the latest measures, while still providing shareholders with the ability to engage with management and the board of directors and vote on resolutions.

Guidance on Safe Distancing Measures for Issuers when Conducting Meetings

The Accounting and Corporate Regulatory Authority (ACRA), Monetary Authority of Singapore (MAS) and Singapore Exchange Regulation (SGX RegCo) jointly issued a press release on 25 March 2020, informing issuers that legislative amendments will be introduced for the Parliament sitting in April 2020, in relation to the conduct of meetings. The proposed legislative amendments will allow issuers the flexibility to hold meetings solely by virtual means (i.e. without a physical meeting), notwithstanding any contrary provisions in their constitutive documents.

In addition, measures were announced by SGX RegCo on 27 February 2020 to provide a time extension of up to two (2) months for issuers to hold their AGMs by 30 June 2020. Issuers who need more time to put in place alternative arrangements for organising virtual meetings will be able to obtain an extension to do so.

What can issuers do now?

We have set out below, some measures that issuers can consider putting in place with respect to up-coming AGMs:

1. Issuers can arrange for the provision of a simultaneous virtual broadcast or “webcast” of the AGM, which

shareholders can access. This should provide the means for shareholders to watch the proceedings without needing to congregate or be physically present at any venue. Issuers may wish to also inform shareholders to avoid congregating to watch the webcast.

2. Where an issuer proceeds with alternative arrangements for holding the AGM, it should ensure that shareholders are promptly notified in advance of such arrangements and given instructions on how to participate, either in the notice of general meeting or by way of an SGXNET announcement.
3. In order to be able to manage the number of shareholders (or their proxies) who intend on accessing and watching the virtual broadcast or webcast of the AGM, the issuer may consider requesting that shareholders pre-register their intention to watch the live webcast.
4. Issuers should also consider making arrangements for shareholders to be able to pose questions concurrently during the meeting, where possible. Alternatively, if this would pose problems for the issuer, it can consider inviting shareholders to submit any questions in advance, and publicly address substantial queries ahead of the AGM.
5. Issuers should also consider putting in place other measures to provide shareholders with ample opportunity to engage management and the board of directors, such as organising virtual information sessions before the AGM to provide shareholders with a forum to ask questions.
6. Where the issuer determines that it would need more time to be able to put in place the necessary measures to proceed with the AGM, the issuer can consider seeking the approval of SGX RegCo and (where applicable) ACRA for an extension of time to hold the AGM.

From the perspective of shareholders, the Securities Investors Association (Singapore) (SIAS) released a press statement on 25 March 2020, providing guidance to all shareholders to help them monitor their investments. The press statement highlighted that shareholders should submit proxy forms in advance to appoint the Chairperson of the general meeting to act as proxy and direct the vote at the general meeting. Shareholders are also advised to utilise the options available to them by companies to participate at AGMs, stay updated and, where available, follow the AGM via webcast.

Concluding Remarks

While the MOH's mandatory safe distancing measures will mean that issuers are not able to hold the usual AGM with physical attendance of shareholders, there are measures that can be put in place that will allow issuers to keep to the currently timetabled AGM dates, and still ensure that shareholders are provided with a means to engage with management and the board of directors and the opportunity to vote their shares on corporate elections and other resolutions. It should be noted that ACRA, MAS and SGX RegCo will continue to monitor the impact of COVID-19, and will put in place additional measures and advisories as necessary.

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