

Alternative Arrangements for Meetings for Companies, Variable Capital Companies, Business Trusts, Unit Trusts and Debenture Holders

The COVID-19 (Temporary Measures) Act 2020 ("Act") was passed on 7 April 2020 and provides, among others, that entities can adopt prescribed alternative arrangements in relation to the conduct of meetings and such meetings held or deferred on or after 27 March 2020 will be deemed to satisfy the relevant requirements under law or their constitutive documents.

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 Act¹. The Order is deemed to have come into operation retrospectively from 27 March 2020.

The Order sets out the alternative arrangements to personal attendance in respect of the following classes of meetings:

- (a) general meetings of companies;
- (b) general meetings of Variable Capital Companies and meetings of classes of members of Variable Capital Companies holding shares in respect of a sub-fund;
- (c) general meetings of unitholders of registered business trusts;
- (d) meetings of unitholders of relevant unit trusts; and
- (e) meetings of holders of a series of debentures expressed to be governed by the law of Singapore.

The Order will apply for the period between 27 March 2020 and the last day in which the COVID-19 (Temporary Measures) (Control Order) Regulations 2020 is in force ("Control Period"). The alternative arrangements will also apply to any meeting convened, held, conducted or deferred during a period of 30 days after the end of the Control Period, where the notice of the meeting was given during the Control Period.

A summary of the alternative arrangements for general meetings of companies provided under the First Schedule of the Order is set out below:

- (i) Convening, holding or conducting of general meeting: A meeting of a company may be convened, held or conducted, whether wholly or partly, by electronic means. Listed companies must publish the minutes of the meeting on SGXNET and the website of the listed company (if available) within one month after the date of the meeting.

¹ On 14 April 2020, the COVID-19 (Temporary Measures) (Alternative Arrangements for Meetings for Companies, Variable Capital Companies, Business Trusts, Unit Trusts and Debenture Holders) (Amendment) Order 2020 was issued and clarifies the manner in which a notice is sent by electronic means by unlisted entities.

- (ii) Attendance: A company may provide that a member may only attend a meeting by observing and listening to the proceedings of the meeting by electronic means, if access to both an audio broadcast and audio-visual broadcast is provided.
- (iii) Right or entitlement to speak on a resolution: A representation may be read out at a meeting by electronic means and a company may require a member to send to the chairman of the meeting the matters which the member wishes to raise at the meeting prior to the meeting. Substantial and relevant matters which are sent within a reasonable time before the meeting are to be responded to at or before the meeting by electronic means.
- (iv) Right or entitlement to be heard or to require representations to be read out: A company may provide that a member may only be heard at a meeting by electronic means in the manner provided in paragraph (iii) above.
- (v) Provision for quorum: A quorum may be formed by two members of the company (or one member if permitted by the legal instrument of the company) personally or electronically present. A member is electronically present if he or she attends the meeting in manner provided in paragraph (ii) above, and such attendance is verified by the share registrar of the company, and the member is acknowledged by electronic means by the chairman of the meeting as present at the meeting.
- (vi) Voting: Members may be required to appoint the chairman of the meeting as the member's proxy to vote at the meeting by depositing with the company an instrument of appointment by post, or by electronic mail to an electronic mail address stated in the notice of the meeting. A member may not vote at the meeting otherwise than by way of appointing the chairman of the meeting as the member's proxy. Special provisions are stipulated for proxies that are delivered by a member to the company before 13 April 2020, to allow the company to treat such instruments of appointment as instruments appointing the chairman as the member's proxy to vote at the meeting.
- (vii) Giving of Notice of Meeting: Notices of meeting may be sent by electronic means and must include certain prescribed matters, including the online location of the meeting, the appointment of chairman as proxy and how questions may be sent by members to the chairman. Notices may be accompanied by any other documents relevant to the meeting. For non-listed companies, notices that are sent by electronic means must be circulated by electronic mail to all members and to the electronic mail address of each member notified by the member to the company. The notice must also be published on the website of the company (if available). For listed companies, the notice must be published on SGXNET and the website of the company (if available), in accordance with the applicable notice periods.
- (viii) Laying and Production of Documents: For non-listed companies, documents required to be laid or produced before a general meeting may be so laid or produced by being sent with the notice of the meeting. For listed companies, such documents must be sent or published in the manner provided in paragraph (vii) above with the notice of meeting, or published at an online location, the address of which is sent with the notice of the meeting, or published on the website of the listed company.

Similar alternative arrangements for meetings for Variable Capital Companies, business trusts, unit trusts and debenture holders are prescribed in the Order. Please reach out to us if you would like further information in this regard.

Further Guidance from the Accounting and Corporate Regulatory Authority (ACRA), Monetary Authority of Singapore (MAS) and Singapore Exchange Regulation (SGX RegCo)

In view of the Order, ACRA, MAS and SGX RegCo had on 13 April 2020 issued a joint statement titled "Additional Guidance on the Conduct of General Meetings During Elevated Safe Distancing Period" ("Joint Statement"). The Annex to the Joint Statement (accessible [here](#)) contains a checklist to guide both listed and non-listed entities on the conduct of general meetings during the period when elevated safe distancing measures are in place. This checklist incorporates the alternative arrangements prescribed in the Order as well as other alternative practices that listed and non-listed companies should adopt given the inability of shareholders and members to attend meetings in person.

For listed issuers, the SGX has provided further guidance through the FAQs on the Holding of General Meetings (accessible [here](#)) which supersedes an earlier version dated 1 April 2020.

Application for Time-Limited Exception

For listed issuers that will be required to have temporary operations in the same physical location for the purpose of holding a general meeting, an application can be made to the Ministry of Trade and Industry for the grant of an automatic time-limited exemption. This is subject to the condition that a maximum of six persons will be present at the location and the safe distancing measures are complied with.

Applications for Extension of Time

As provided in the SGX RegCo announcement dated 7 April 2020 (accessible [here](#)), SGX RegCo (in consultation with ACRA and MAS) will automatically extend by 60 days the deadline for all issuers with financial year-end on or before 31 March 2020 to hold their annual general meetings. Issuers that wish to make use of the automatic extension should refer to the requirements set out in the announcement.

If you would like information and/or assistance on the above or any other area of law, you may wish to contact the Partner at WongPartnership whom you normally work with or any of the following Partners:

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