

# Guidance and FAQs on the Conduct of General Meetings for Listed Issuers

(Date of issuance: 18 April 2020)

## PART I: Introduction

- 1.1 The Covid-19 pandemic and the ensuing enforcement of the Movement Control Order (MCO)<sup>1</sup> have changed the ordinary course of life and business. For businesses, it has also affected engagements between the company and its shareholders, which includes the conduct of general meetings.
- 1.2 The *Guidance and FAQs on the Conduct of General Meetings for Listed issuers* (Guidance Note) is issued by the Securities Commission Malaysia (SC) to guide all companies listed on Bursa Malaysia Securities Bhd on the conduct of general meetings, including Annual General Meeting and Extraordinary General Meeting during a period when the MCO is in place or outside of an MCO period; but where safe distancing requirements remain (e.g. restriction on mass gatherings). This includes the conduct of **fully virtual general meetings** and **hybrid general meetings**.
- 1.3 Fully virtual general meetings are conducted online, without a physical meeting venue for board members, senior management, shareholders and others involved in a general meeting to gather. The only venue involved in the conduct of a fully virtual general meeting is the **broadcast venue**<sup>2</sup> where only the **essential individuals** are physically present to organize the fully virtual general meeting. Shareholders in a fully virtual general meeting will participate by audio or/and video capabilities.
- 1.4 The essential individuals physically present at the broadcast venue should be not more than **8 individuals**. It is envisaged that these individuals would include the Chairperson of the general meeting, the Chief Executive Officer, the Chief Financial Officer, the company secretary, the auditor, the scrutineer and those providing audio and visual support for the fully virtual general meeting. Companies are encouraged to conduct the fully virtual meeting with the fewest possible number of essential individuals present at the broadcast venue, and are reminded to ensure social distancing and precautionary measures are practiced.

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<sup>1</sup> Implemented under *Malaysia's Prevention & Control of Infectious Diseases Act 1988* and the *Police Act 1967*.

<sup>2</sup> A broadcast venue refers to a physical venue in Malaysia where the Chairperson of the general meeting is physically present. The essential individuals may also be present at the broadcast venue to facilitate the conduct of a fully virtual general meeting.

- 1.5 A **hybrid general meeting** is conducted at a physical meeting venue with shareholders physically present. The same meeting is broadcasted online, and shareholders are also provided the option of participating in the meeting via audio or/and video capabilities.
- 1.6 A listed issuer shall not conduct a hybrid general meeting during an MCO, as it involves a gathering of individuals at 1 or more physical meeting venue(s). During an MCO, the SC will only consider and facilitate time-limited travel exemptions for essential individuals to conduct a fully virtual general meeting.

A listed issuer can apply for the time-limited travel exemption for the essential individuals to conduct a fully virtual general meeting from the SC by submitting the information required in Appendix 1 of this Guidance Note to [AGM@seccom.com.my](mailto:AGM@seccom.com.my). The application must be submitted to the SC no later than 5 working days prior to the date of the general meeting.

- 1.7 The common concerns or issues in relation to the conduct of general meetings, including fully virtual or hybrid general meetings, during the MCO period or outside of an MCO period are addressed in the list of Frequently Asked Questions (FAQs) in Part II of this Guidance Note.
- 1.8 All listed issuers are reminded to observe the directives, safety and precautionary requirements as prescribed by the Government and the relevant authorities to curb the spread of Covid-19.
- 1.9 This Guidance Note will be updated as and when required, including to ensure they are aligned with the Government's measures to curb the spread of Covid-19. This includes guidance on the number of individuals allowed to be present at a broadcast venue and a physical meeting venue for fully virtual and hybrid meetings respectively post an MCO.
- 1.10 The Guidance Note will be applicable beyond the MCO period. When appropriate and circumstances permit, the MCO and Covid-19 related guidance will be removed for example the limitation on the number of individuals permitted to be present at a broadcast venue or a physical meeting venue in the case of a fully virtual general meeting and hybrid general meeting respectively.
- 1.11 The SC also encourages listed issuers to continue leveraging technology to conduct its general meetings and communication with shareholders beyond the MCO period.

## Part II: Frequently Asked Questions

### A. Timeline to conduct an Annual General Meeting (AGM)

#### 2.1 When is a listed issuer required to conduct its AGM?

Under section 340(2) of *Companies Act 2016*, a company shall conduct its annual general meeting –

- (a) within six months of the company's financial year; and
- (b) not more than 15 months after the last preceding annual general meeting.

#### 2.2 Can a listed issuer request for an extension of time (EOT) to conduct its AGM?

Yes, a listed issuer may request for an EOT to conduct its AGM.

#### 2.3 How does a listed issuer apply for an EOT to conduct its AGM?

A listed issuer should submit an application to the Companies Commission of Malaysia (CCM) pursuant to sub-section 340(4) of *Companies Act 2016*. Please refer to [CCM's website \(www.ssm.com.my\)](http://www.ssm.com.my) on the application procedure.

### B. Notice of meetings

#### 2.4 Can a listed issuer circulate the notice of meeting electronically to its shareholders?

A listed issuer can circulate the notice of meeting electronically to its shareholders provided the listed issuer's constitution allows it to do so, and it complies with any applicable legal requirements under the *Companies Act 2016* and *Bursa Malaysia Listing Requirements* (Listing Requirements)<sup>3</sup>. The listed issuer must issue the notice of the meeting in accordance with the manner as set out in its constitution.

#### 2.5 Is a listed issuer required to follow the notice period stipulated under the *Companies Act 2016* and Listing Requirements if the notice is sent electronically?

Yes. A listed issuer must follow the stipulated notice period stated under section 316(2) of *Companies Act 2016* and the listed issuer's constitution.

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<sup>3</sup> Listing Requirements, paragraph 2.19(B)/Rule 2.19(B)

## C. Conduct of meeting

### 2.6 Can a listed issuer conduct its general meeting online e.g. remote shareholders' participation, live broadcasting?

Section 327<sup>[1]</sup> of *Companies Act 2016* allows the use of technology for the conduct of general meetings unless the listed issuers' constitution requires the general meeting to be organised at a physical venue. The listed issuer should ensure that the –

- (a) technology used enables members to exercise their rights to speak and vote at the meeting;
- (b) main venue of the meeting is in Malaysia; and
- (c) Chairperson of the meeting shall be at the main venue.

### 2.7 Must the listed issuers' constitution contain expressed provisions allowing it to leverage technology to conduct general meetings?

No. A listed issuer may leverage technology to conduct its general meeting provided its constitution does not prohibit it from doing so. If a listed issuer's constitution is silent on the manner a general meeting should be conducted, the listed issuer is permitted to leverage technology to conduct its general meeting.

Where a listed issuer's constitution expressly prescribes the requirement for a physical meeting venue to conduct its general meeting, such listed issuer is advised to defer the conduct of its general meeting until circumstances permit the use of a physical venue.

After the MCO is lifted, listed issuers should review and update their constitutions to enable the use of technology to conduct general meetings and facilitate communication and engagements with shareholders electronically.

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<sup>[1]</sup> Section 327(1) - Subject to the constitution, a company may convene a meeting of members at more than one venue using any technology or method that enables the members to participate and to exercise the members' rights to speak and vote at the meeting.

Section 327 (2) - The main venue of the meeting shall be in Malaysia and the chairperson shall be present at that main venue of the meeting.

**2.8 Is 'venue of the meeting' under section 327 of *Companies Act 2016* restricted to physical venues only?**

The 'venue of the meeting' envisaged under section 327 of *Companies Act 2016* is physical venue(s). Technology such as online platforms can be used to facilitate the conduct of general meetings, but listed issuers must be able to demonstrate that the main venue of the meeting is in Malaysia where the Chairperson is physically present. The broadcast venue as described in paragraph 1.3 of this Guidance Note fulfills the requirements under section 327(2) of *Companies Act 2016*.

**2.9 Can shareholders submit their questions prior to the general meeting?**

Yes, shareholders can submit their questions prior to the general meeting within the stipulated time and through a manner (for example electronic means or by post) as determined by the listed issuer.

*Fully virtual general meeting*

**2.10 Can a listed issuer conduct a fully virtual general meeting?**

Yes, subject to the listed issuer's constitution and compliance with requirements under section 327 of the *Companies Act 2016*. Refer also to FAQ 2.6, 2.7 and 2.8.

**2.11 If a listed issuer needs to conduct a general meeting during an MCO, how should the meeting be conducted?**

Listed issuers shall only conduct fully virtual general meetings during an MCO.

**2.12 What are the requirements to conduct a fully virtual general meeting when an MCO is in place?**

In addition to the requirements under section 327 of *Companies Act 2016*, a listed issuer should -

- (a) ensure there is reliable infrastructure to enable the conduct of a fully virtual general meeting including enabling members to exercise their rights to speak and vote at the meeting;
- (b) provide guidance to shareholders on the requirements and method of participating in the general meeting using the selected platform;
- (c) identify a broadcast venue;
- (d) ensure only up to eight essential individuals are physically present at the broadcast venue and social distancing precautionary measures are practiced; and
- (e) only eligible members are allowed to participate in the meeting.

Listed issuers are advised to provide shareholders with a dedicated contact number and/or email to submit queries or request for technical assistance to participate in the fully virtual general meeting.

**2.13 In the case of a fully virtual general meeting, what should the listed issuer state as the 'place' of the meeting in the content of its notice of meeting as required under sub-section 317(1)(a) of *Companies Act 2016*?**

The notice must indicate the broadcast venue as the place of meeting. In addition, the notice must also state the online platform being used for the meeting to ensure members are aware and have access to it.

Listed issuers are reminded to provide the necessary guidance to its members on the requirements and method of participating in the general meeting using the selected online platform.

**2.14 Section 327(2) of the *Companies Act 2016* requires the Chairperson to be present at the main venue of the meeting. How will this requirement be met in the case of a fully virtual meeting?**

The Chairperson must be physically present at the broadcast venue.

**2.15 In the event the Chairperson of the meeting is not in Malaysia, can the listed issuer still proceed with the meeting?**

Subject to the listed issuer's constitution, in the event the Chairperson of the meeting is not in Malaysia, unless members or directors whichever is specified in the constitution elect one of their members who is in Malaysia to be the Chairperson of the meeting, the meeting shall not proceed.

**2.16 Are all directors required to be physically present in a fully virtual general meeting?**

During an MCO, the number of essential individuals physically present at the broadcast venue should not exceed eight individuals. Directors who are not part of the 8 essential individuals can participate in the meeting online.

**2.17 During an MCO, can a listed issuer apply for exemption for the essential individuals to travel and be present at the broadcast venue?**

Yes, a listed issuer may apply for a time-limited exemption for the essential individuals to travel to and be physically present at the broadcast venue during the MCO to facilitate the conduct of a fully virtual general meeting.

Listed issuers are reminded, that there should be no more than 8 individuals physically present at the broadcast venue. Listed issuers are also advised to conduct the fully virtual general meeting with the fewest number of essential individuals as possible.

**2.18 How does a listed issuer apply for the time-limited travel exemption?**

A listed issuer can apply for the time-limited travel exemption from the SC by submitting the information required in Appendix 1 of this Guidance Note to [AGM@seccom.com.my](mailto:AGM@seccom.com.my).

**2.19 What are the requirements to conduct a hybrid general meeting?**

In addition to the requirement under section 327 **Companies Act 2016**, a listed issuer should -

- (a) ensure there is reliable infrastructure to enable the conduct of a hybrid general meeting including enabling members to exercise their rights to speak and vote at the meeting;
- (b) provide guidance to shareholders on the requirements and method of participating in the general meeting using the selected platform;
- (c) identify physical meeting venue;
- (d) ensure that only members who are eligible can attend and participate in the meeting; and
- (e) observe any directive or/and protocol on gatherings as determined by the Government.

**2.20 In a fully virtual general meeting or hybrid general meeting, is the shareholders' right to speak limited to verbal communication only (i.e. using voice)?**

No. The right to speak is not limited to verbal communication only but includes other modes of expression for example real time submission of typed texts. However, all modes of communication must be expressly stated as acceptable by the listed issuer in the notice of the meeting. This is to ensure that in the event of any technical glitch in the primary mode of communication, it can be supplemented by a secondary backup communication channel.

**2.21 For a fully virtual or hybrid AGM, is a listed issuer required to table the resolutions stipulated by the law<sup>4</sup>, the Listing Requirements or the listed issuers' constitution?**

Yes, a listed issuer must table all the resolutions required under the law, the Listing Requirements and the listed issuer's constitution.

Listed issuers are reminded to ensure the meeting proceedings and resolutions passed at the meeting are properly recorded and maintained as required under sections 341 of the *Companies Act 2016*. We also encourage listed issuers to record (video and audio recording) the meeting, if they are able to.

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<sup>4</sup> For example, section 340 of *Companies Act 2016*.

Additionally, listed issuers must also publish a summary of the key matters discussed at the annual general meeting, as soon as practicable after the conclusion of the annual general meeting, on their website pursuant to paragraph/Rule 9.21(2)(b) of the Listing Requirements.

## **D. Meeting quorum**

### **2.22 What is the quorum for a fully virtual or hybrid general meeting?**

Subject to the listed issuer's constitution, the quorum shall be at least 2 members; personally participating in the meeting or by proxy, pursuant to sub-section 328(2) of *Companies Act 2016*. Participation of members is not restricted to physical presence but also includes members' online participation at the meeting.

### **2.23 How does a listed issuer count the number of members present at a fully virtual or hybrid general meeting to determine quorum?**

The quorum of the meeting can be determined as follows:

- a. Fully virtual general meeting – the quorum can be determined by the number of members logged-in at the start of the meeting
- b. Hybrid general meeting – the quorum can be determined by the number of physical attendees at the meeting and members logged-in at the start of the meeting.

A listed issuer must ensure there is proper mechanism to ensure members or proxies can fully participate in the meeting. There must also be a proper audit trail to record the attendance of individual members at the meeting.

## **E. Voting including online voting**

### **2.24 Must the online voting process support in time voting<sup>5</sup> during the proceedings of the general meeting?**

Yes, the online voting process must be able to allow members to cast their votes in time during the proceeding of the general meeting.

### **2.25 How would members with no access to the internet cast a vote?**

Such members may cast a vote via proxy forms appointing the Chairperson of the meeting to vote on the members' behalf. The proxy forms should be submitted within the stipulated time and through a manner (for example electronic means or postal) as determined by the listed issuer.

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<sup>5</sup> For purposes of this Guidance Note, 'in time voting' refers to the ability for shareholders to cast their votes remotely and contemporaneously (live) during the proceeding of the general meeting.



**2.26 Does a listed issuer need to appoint a scrutineer under paragraph 8.29A(2)/ Rule 8.31A(2) of the Listing Requirements if it conducts a fully virtual or hybrid general meeting?**

Yes, a listed issuer must appoint at least one scrutineer to validate the votes cast at the general meeting whether on-site or remotely.

**2.27 How does the scrutineer validate the votes if voting is conducted online?**

Similar to the validation process at a physical general meeting, the scrutineer must ensure that the votes cast are validated accordingly.

## **F. General**

**2.28 If the MCO and social distancing requirements are lifted, are listed issuers expected to conduct fully virtual or hybrid general meetings?**

Listed issuers are encouraged to continue leveraging technology to conduct their general meetings beyond the MCO. This includes conducting fully virtual or hybrid general meetings. Listed issuers should ensure its constitution allows it to leverage technology to facilitate communication and engagements with shareholders. This is also in line with Principle C (II) and Practice 12.3 of the *Malaysian Code on Corporate Governance*, where boards are encouraged to have effective, transparent and regular communication with shareholders including leveraging technology to promote shareholder participation.

**2.29 If the MCO and social distancing requirements are lifted, will this Guidance Note still be applicable?**

Yes, this Guidance Note will still be applicable to guide listed issuers on the conduct of fully virtual and hybrid general meetings. When appropriate and circumstances permit, the MCO and Covid-19 related guidance would be removed for example the limitation on the number of individuals permitted to be physically present at a broadcast venue or a physical meeting venue in the case of a fully virtual general meeting and hybrid meeting respectively.

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Any query in relation to this Guidance Note can be directed to [AGM@seccom.com.my](mailto:AGM@seccom.com.my)

## APPENDIX 1

### APPLICATION FOR TIME-LIMITED TRAVEL EXEMPTION FOR GENERAL MEETING (DURING MOVEMENT CONTROL ORDER)

#### SECTION A: INFORMATION ON LISTED ISSUER

|                              |  |
|------------------------------|--|
| Company name                 |  |
| Company registration number  |  |
| Stock code                   |  |
| Address of registered office |  |
| Financial year end           |  |
| Name of contact person       |  |
| Mobile number                |  |
| Email                        |  |

#### SECTION B: DETAILS OF GENERAL MEETING

|  |  |
|--|--|
| Meeting date   |  |
| Meeting time   |  |
| Broadcast venue<br>(Please provide the full address) |  |
| Online platform used for the<br>general meeting      |  |

#### SECTION C: DETAILS OF ESSENTIAL INDIVIDUALS

Please note that **no more than 8 essential individuals** are allowed to be present at the broadcast venue.

| No | Full name<br>(As per NRIC/<br>Passport) | Position | Company name &<br>address | NRIC/Passport<br>number | Mobile<br>number |
|----|---|----------|---------------------------|-------------------------|------------------|
| 1  |   |          |                           |                         |                  |
| 2  |   |          |                           |                         |                  |
| 3  |   |          |                           |                         |                  |
| 4  |   |          |                           |                         |                  |
| 5  |   |          |                           |                         |                  |
| 6  |   |          |                           |                         |                  |
| 7  |   |          |                           |                         |                  |
| 8  |   |          |                           |                         |                  |

#### REMARKS (IF ANY)

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