

SGX REGCO'S PUBLIC CONSULTATION ON THE FACILITATION OF SHAREHOLDER-REQUISITIONED MEETINGS

Introduction

1. As a starting point, issuers listed on the SGX are required to hold at least one general meeting each calendar year, which is the Annual General Meeting (“**AGM**”). The AGM is to be held within four months after the end of each financial year¹. Any other general meeting of the company is referred to as an Extraordinary General Meeting (“**EGM**”), which is essentially an ad hoc meeting of the shareholders to usually pass an ordinary or special resolution. Such meetings are important forums which enable shareholders to directly express their views and expectations on the company’s matters and practices through the exercise of their right to vote at general meetings.
2. Additionally, shareholders are also able to seek and obtain support for their proposals for the company by requisitioning meetings. A shareholder (or a group of shareholders acting together) (the “**Requisitionists**”) also has the ability to requisition a general meeting (“**Shareholder-Requisitioned Meeting**”) to table resolutions before the other shareholders. Such resolutions could be for purposes such as to remove the entire board of directors or to effect or terminate certain transactions. Shareholders may choose to requisition meetings in order to seek support in relation to their proposals for the company, especially where what the shareholders are seeking are different from the wants of the Board of Directors (the “**Board**”) or the management of the company.
3. In this regard, the SGX RegCo had launched a public consultation whereby it has proposed to impose an obligation on issuers to facilitate the convening and conduct of Shareholder-Requisitioned Meetings.
4. Analogous provisions may also be applicable to meetings requisitioned by unitholders in respect of real estate investment trusts and business trusts under the Singapore Code on Collective Investment Schemes and Business Trusts Act 2004 respectively.

25 June 2024

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¹ Section 175(1)(a) of the Act

Current Regulatory Framework

5. Under the Singapore Companies Act 1967 (the “**Act**”), there are two methods in which shareholders may requisition a Shareholder-Requisitioned Meeting.
6. The first method is laid out in section 176 of the Act. Section 176(1) of the Act provides that on the requisition of members holding not less than 10% of the total number of paid-up shares or in the case of a company with no share capital, of members representing not less than 10% of the total voting rights, the directors are to immediately proceed to convene an EGM. The EGM is to be held as soon as practicable but, in any case, not later than two months after the receipt of the requisition.
7. Section 176(2) further provides that the requisition is to state the objects of the meeting and must be signed by the requisitionists. The requisition is also required to be deposited at the registered office of the company. If the directors do not proceed to convene a meeting within 21 days after the date of deposit of the requisition, the requisitionists or any of them representing more than 50% of the total voting rights of all the requisitionists, may convene a meeting themselves². Such meeting must be held within three months after the date of the deposit of the requisition.
8. The second method is set out under section 177 of the Act, which provides that two or more members holding not less than 10% of the total number of issued shares of the company or, where the company does not have a share capital, not less than 5% in number of the members of the company or such lesser number as is provided by the constitution, may call a meeting of the company.
9. Section 177(2) also requires for the meeting (apart from a meeting for the passing of a special resolution) to be called by written notice.
10. The material difference between these two methods is that under section 176(1), the burden falls on the directors to convene the requisitioned meeting. In contrast, under section 177(1), the requisitionists are required to take steps to convene the requisitioned meeting.
11. It should also be noted that currently, the SGX-ST Listing Rules (Mainboard) (“**Mainboard Rules**”) and the SGX-ST Listing Rules (Catalist) (“**Catalist Rules**”, and together with the Mainboard Rules, “**Listing Rules**”) do not impose any specific obligations on issuers when their shareholders have requisitioned a general meeting.

Rationale for the SGX RegCo’s Proposed Change

12. The SGX RegCo, in its Consultation Paper, has observed common obstacles which shareholders have faced in trying to fulfil the procedural requirements to convene and conduct Shareholder-Requisitioned meetings.

² Section 176(3) of the Act

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13. First, as aforementioned, a shareholder who opts to requisition a meeting via section 177 will have to call for the meeting by written notice. This may be challenging if the company's constitution ("**Constitution**") requires the dispatch of the notice to the shareholder's registered address in order for proper notice to be deemed given. To do so, the Requisitionists would require the particulars of the company's shareholders, and such details are not easily available. While a Register of Members is available, it often does not provide a comprehensive representation of the company's shareholding base. As such, without the Board's cooperation and assistance, the Requisitionists may be unable to obtain the shareholders' particulars. Failure to fulfil such procedural requirements may lead to the requisition as being deemed invalid.
14. Second, if the meeting has been called, shareholders may appoint proxies to attend in their stead. Such appointment is done by filling up proxy forms. In this regard, if the company's Constitution requires for the completed proxy forms to be deposited at company's registered office, the Requisitionists are likely to need the assistance of the Board to handle the proxy forms as the Requisitionists are unlikely to have access to the company's registered office.
15. Third, the Requisitionists would need the assistance of the Board in releasing announcements and documents on SGXNET, such as notices, circulars and proxy forms.
16. Fourth, the company's Constitution may require for all general meetings, which would include Shareholder-Requisitioned Meetings, to be conducted in the Board's presence. The Board's presence may be difficult to secure, especially if the Board is hostile towards the Requisitionists.
17. Given these impediments, the SGX RegCo has proposed a change to the Listing Rules, to facilitate the democratic process of a Shareholder-Requisitioned Meeting. This change is in line with the SGX RegCo's Regulator Column on Shareholder-Requisitioned Meetings, where the SGX RegCo had called on the Board, Requisitionists and their respective professional advisers to work together to ensure that the Shareholder-Requisitioned Meeting is conducted successfully and expeditiously.

Proposed Change

Substance of Proposed Change

18. The SGX RegCo has proposed to impose an obligation on issuers to facilitate the convening and conduct of a Shareholder-Requisitioned Meeting upon receiving a requisition notice from the shareholders. This obligation is to apply to Shareholder-Requisitioned Meetings convened under sections 176 and 177 of the Act.
19. The requisition notice must prima facie satisfy the procedural thresholds in the relevant laws governing the issuer in its place of incorporation (the "**Relevant Law**"). As such, in the case of Singapore-incorporated issuers, the requisition notice must prima facie satisfy the procedural thresholds laid out in sections 176 and 177 of the Act.
20. In this regard, the SGX RegCo has proposed that issuers are to begin their facilitation efforts within 21 days of deposit of the requisition notice. Further, where the issuer disputes the

validity of the requisition notice, it would have to apply to court for a ruling, within 21 days upon deposit of the requisition notice.

21. These proposed changes come in the form of two new insertions to the Mainboard Rules and the Catalist Rules. The substance of the insertions is exactly the same, and has been reproduced below for reference:

Proposed Insertion to Mainboard Rules & Catalist Rules
<p>Facilitating Interaction with Shareholders</p> <p>730A</p> <p>(5) Unless the Exchange requires otherwise, where an issuer has received a requisition notice from shareholders calling for a general meeting that meets the procedural thresholds in the relevant laws and regulations governing the issuer in its place of constitution and the issuer's Articles of Association or other constituent document, it must:</p> <p>(a) provide assistance reasonably necessary to shareholders to facilitate the convening, and conduct, of the general meeting; or</p> <p>(b) where it disputes the validity of the requisition notice, apply to court for a ruling,</p> <p>in each case as soon as practicable, within 21 days upon deposit of the requisition notice.</p>

Areas of Facilitation

22. The SGX RegCo has envisaged some areas in which the issuer should provide assistance, and these areas are set out below:
- a. Releasing announcements and documents, such as notices, circulars and proxy forms, on SGXNet;
 - b. Sending documents, such as notices, circulars and proxy forms, to shareholders;
 - c. Collating any proxy forms submitted by shareholders at the issuer's registered office;
 - d. Securing the Board's attendance at the Shareholder-Requisitioned Meeting;
 - e. Enabling the appointed scrutineer to discharge its duties under Rule 730A of the Listing Rules; and
 - f. Instructing its agents, including its share registrar and company secretary, to provide any necessary assistance, which may encompass the areas set out in the above paragraphs, such as preparing the mailing labels for the purposes of sending documents to shareholders and attending at the Shareholder-Requisitioned Meeting.



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23. This list is merely illustrative, and is not an exhaustive list of areas in which the issuer should provide assistance. As noted by the SGX RegCo, the scope of assistance would differ from issuer to issuer, as it would be dependent on specific provisions in each issuer's Constitution.

Other Points to Note

24. The SGX RegCo also considers that the requisition notice should contain certain information which would assist the Board in ascertaining the validity of the requisition notice in accordance with the requirements of the Relevant Law and the Constitution. At the minimum, the requisition notice should contain the names and shareholdings of the Requisitionists, and a description of the proposed resolutions to be tabled at the Shareholder-Requisitioned Meeting.
25. The SGX RegCo has also highlighted that pursuant to Rule 703 of the Listing Rules, where the Board has received a requisition notice, the Board should inform shareholders immediately via SGXNet.

Follow-Up

26. The public consultation on the proposed amendments to the Listing Rules has closed on 23 May 2024. Our team has submitted a response to the public consultation.
27. If you have any questions on any aspect of the proposed change, please contact our Mr. Adrian Chan (adrianchan@leenlee.com.sg), Mr. Lun Chee Leong (luncheeleong@leenlee.com.sg) or Ms. Liane Lim (lianelim@leenlee.com.sg).

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