

GUIDANCE NOTE AND FAQs ON THE CONDUCT OF GENERAL MEETINGS FOR LISTED ISSUERS

(Date of issuance: 18 April 2020)

(Revised: 16 July 2021)

PART I: INTRODUCTION

- 1.1 This *Guidance and FAQs on the Conduct of General Meetings for Listed Issuers* (Guidance Note) was first issued by the Securities Commission Malaysia (SC) on 18 April 2020 in line with the implementation of the Movement Control Order (MCO)¹. This is the 10th revision of the Guidance Note, in line with the announcement by the Prime Minister on 14 June 2021 in relation to the implementation of the National Recovery Plan (NRC) and relevant SOPs issued by Majlis Keselamatan Negara (MKN) for phases under the NRC. Please refer to **Appendix A** for the full list of revisions.
- 1.2 This Guidance Note is issued to guide all issuers listed on Bursa Malaysia Securities Berhad and management companies of unit trust funds on the conduct of general meetings, including Annual General Meeting, Extraordinary General Meeting and Meeting of Unit Holders during the COVID-19 pandemic where physical distancing and other safety and precautionary measures must be exercised. This includes the conduct of **fully virtual, virtual, hybrid and physical general meetings**.

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Table 1: Mode of conducting a general meeting

| No. | Mode of meeting | Details |
|-----|-----------------|--|
| 1. | Fully virtual | Conducted online where <u>all</u> meeting participants including the Chairperson of the meeting, board members, senior management and shareholders ² participate in the meeting online. |
| 2. | Virtual | Conducted online from a broadcast venue, where only essential individuals ³ are physically present to conduct the virtual general meeting. All shareholders in a virtual general meeting participate in the meeting online. |

¹ Implemented under *Malaysia's Prevention & Control of Infectious Diseases Act 1988, Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) Regulations 2020* and the *Police Act 1967*.

² For a listed real estate investment trust and exchange-traded fund, this refers to 'unit holders'.

³ It is envisaged that the essential individuals may include the Chairperson of the general meeting, board members, 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.

| Table 1: Mode of conducting a general meeting | | |
|---|-----------------|---|
| No. | Mode of meeting | Details |
| 3. | Hybrid | Conducted at a physical meeting venue(s) with meeting participants including shareholders physically present. Meeting participants also have the option of participating in the meeting online. |
| 4. | Physical | Conducted at a physical meeting venue(s) only, without any online participation. |

- 1.3 The mode of conducting a general meeting will be based on the respective phases under the National Recovery Plan -

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| Table 2: National Recovery Plan | | | | |
|---------------------------------|--|---|---------|---------|
| | Phase 1 | Phase 2 | Phase 3 | Phase 4 |
| Mode of meeting | Fully virtual only. Physical gathering irrespective of size is prohibited. | Listed issuers are encouraged to conduct fully virtual general meetings. A company may conduct a virtual, hybrid or physical meeting provided the MKN SOPs applicable to the location of the meeting venue permit the conduct of such meetings. | | |
| | Only fully virtual general meeting is allowed to be conducted in areas under Emergency Movement Control Order (EMCO) . Physical gathering irrespective of size is prohibited. | | | |

- 1.4 As required under section 327 of the Companies Act 2016, the main venue of the meeting must be in Malaysia and the Chairperson of the meeting shall be present at the main venue of the meeting. If the main venue of the meeting is the online platform used to conduct the meeting, then a listed issuer must be able to prove that the online platform is located in Malaysia to fulfill the requirements under section 327 of the Companies Act 2016. For further information, please refer to the [FAQs on Virtual General Meeting](#) issued by the Companies Commission of Malaysia.
- 1.5 The common concerns or issues in relation to the conduct of general meetings, including fully virtual, virtual, hybrid or physical general meetings are addressed in the list of Frequently-Asked Questions (FAQs) in Part II of this Guidance Note.
- 1.6 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.

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- 1.7 **All listed issuers are reminded to ensure the prevailing and applicable SOPs as well as precautionary measures as prescribed by the Government, the Ministry of Health, MKN and other relevant authorities to curb the spread of COVID-19 are abided by.**

Any query in relation to this Guidance Note can be directed to AGM@seccom.com.my

Part II: FREQUENTLY-ASKED QUESTIONS

A. Timeline to conduct an Annual General Meeting

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 (AGM)–

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

In relation to listed real estate investment trusts (REITs), paragraph 13.18(a) of the *Guidelines on Listed Real Estate Investment Trusts* (Guidelines on Listed REITs) requires a management company to hold an annual general meeting–

- (a) within four months of the REIT’s financial year end; and
- (b) not more than 15 months after the last preceding annual general meeting.

B. Notice of meetings

2.2 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 or trust deed allows it to do so, and it complies with any applicable legal requirements under the *Companies Act 2016*, *Guidelines on Listed REITs*, *Guidelines on Exchange-traded Funds* (Guidelines on ETFs) and *Bursa Malaysia Listing Requirements* (Listing Requirements)⁴. The listed issuer must issue the notice of the meeting in accordance with the manner as set out in its constitution or trust deed.

⁴ Listing Requirements, paragraph 2.19(B)/Rule 2.19(B)

2.3 Is a listed issuer required to follow the notice period stipulated under the *Companies Act 2016, Guidelines on Listed REITs, Guidelines on ETFs* 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.

In relation to a REIT and an exchange-traded fund (ETF), the management company must follow the stipulated notice period stated under paragraphs 13.20 and 13.21 of the *Guidelines on Listed REITs*, and paragraphs 11.23, 11.24, 11.25 and 11.29 of the *Guidelines on ETFs*.

C. Conduct of meeting

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

Section 327⁵ 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 present at the main venue of the meeting.

The *Guidelines on Listed REITs* and *Guidelines on ETFs* do not prescribe the manner in which a general meeting must be organised. Unless the trust deed of the REIT or ETF requires the general meeting or unit holders' meeting to be organised at a physical venue, a management company can conduct the REIT or ETF's general meeting online.

⁵ 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 than 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.

2.5 Must the listed issuers' constitution or trust deed 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 or trust deed does not prohibit it from doing so. If a listed issuer's constitution or trust deed 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 or trust deed 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.

Listed issuers should review and update their constitutions or trust deed to enable the use of technology to conduct general meetings and facilitate communication and engagements with shareholders electronically.

2.6 Is 'venue of the meeting' under section 327 of *Companies Act 2016* and 'place' under paragraphs 13.20 and 13.21 of the *Guidelines on Listed REITs*, and paragraphs 11.23, 11.24 and 11.25 of the *Guidelines on ETFs* restricted to physical venues only?

No. An online meeting platform can be recognized as the meeting venue or place under section 327(2) of Companies Act 2016, paragraphs 13.20 and 13.21 of the *Guidelines on Listed REITs*, and paragraphs 11.23, 11.24 and 11.25 of the *Guidelines on ETFs*. This is provided the listed issuers can prove that the online platform is located in Malaysia to fulfil the requirements under section 327 of Companies Act 2016.

2.7 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.

Listed issuers are advised to share the questions that were submitted by shareholders prior to the general meeting, at the general meeting itself.

Listed issuers are also advised to include questions and remarks raised by shareholders and the listed issuers' response to these questions and remarks during the general meeting in the 'Key Matters Discussed' which is to be

published on the website of the listed issuer after the conclusion of the general meeting.

Practice 13.5 of the *Malaysian Code on Corporate Governance (as at 28 April 2021)* recommends that boards ensure the conduct of general meetings supports meaningful engagement between the board, senior management and shareholders. This includes having the right infrastructure to support amongst others interactive participation by shareholders. Questions posed by shareholders should also be made visible to all meeting participants during the meeting itself, and should be responded to.

Online participation in general meetings

2.8 Can a listed issuer conduct a general meeting where some or all of the meeting participants participate in the meeting online?

Yes, subject to the listed issuer's constitution or trust deed and compliance with requirements under section 327 of the *Companies Act 2016*, *Guidelines on Listed REITs* and *Guidelines on ETFs*. Refer also to FAQ 2.6, 2.7 and 2.8.

2.9 What are the requirements to conduct a general meeting where some or all of the meeting participants participate online?

In addition to the requirements under section 327 of *Companies Act 2016*, *Guidelines on Listed REITs* and *Guidelines on ETFs*, a listed issuer should—

- (a) ensure there is reliable infrastructure to enable the conduct the 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 if required;
- (d) if applicable, determine whether additional meeting venue(s) is required accommodate the meeting participants;
- (e) only eligible members are allowed to participate in the meeting; and
- (f) adherence to the prevailing and applicable Standard Operating Procedures (SOPs) as well as precautionary measures as prescribed by the Government, the Ministry of Health, MKN and other relevant authorities to curb the spread of COVID-19.

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 general meeting.

2.10 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*, paragraphs 13.20 and 13.21 of the *Guidelines on Listed REITs* and paragraphs 11.23, 11.24 and 11.25 of the *Guidelines on ETFs*?

A listed issuer must identify the place of the meeting which may be the online platform used to conduct the meeting. A listed issuer must be able to prove that the online platform is located in Malaysia to fulfil the requirements under section 327 of *Companies Act 2016*.

2.11 If a listed issuer would like to conduct a fully virtual general meeting, however some of its shareholders insist on being physically present at a meeting venue, how should the listed issuer proceed?

If shareholders insist on being physically present at a meeting venue, then a listed issuer should consider conducting a hybrid or physical general meeting, when situation permits.

Physical general meeting

2.12 What are the requirements to conduct a physical general meeting?

In addition to the requirement under section 327 *Companies Act 2016*, *Guidelines on Listed REITs* and *Guidelines on ETFs*, a listed issuer should–

- (a) ensure there is reliable infrastructure to enable the conduct of a physical 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;
- (c) ensure that only members who are eligible can attend and participate in the meeting;
- (d) require shareholders to register ahead of the meeting to allow listed issuers to make the necessary arrangements including in relation to logistics;
- (e) determine whether additional meeting venue(s) is required to accommodate the meeting participants; and

- (f) adherence to the prevailing and applicable Standard Operating Procedures (SOPs) and precautionary measures as prescribed by the Government, the Ministry of Health, the Malaysian National Security Council and other relevant authorities to curb the spread of COVID-19.

2.13 In a fully virtual, virtual, hybrid or physical 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.

In relation to typed texts, listed issuers are advised to make the questions and remarks posed by shareholders during the general meeting visible to all participants of the meeting. Boards should also provide meaningful response to all questions posed by shareholders to them, as recommended in the *Malaysian Code on Corporate Governance*.

Resolutions to be tabled at a fully virtual, virtual, or hybrid general meeting

2.14 For a fully virtual, virtual or hybrid AGM, is a listed issuer required to table the resolutions stipulated by the law⁶, 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.

Additionally, listed issuers must also publish a summary of the key matters discussed at the annual general meeting, as soon as practicable after the

⁶ For example, section 340 of *Companies Act 2016*.

conclusion of the annual general meeting, on their website pursuant to paragraph/Rule 9.21(2)(b) of the Listing Requirements.

In relation to ETFs, the management company must also provide a copy of the resolution to the SC and trustee.

D. Meeting quorum

2.15 What is the quorum for a fully virtual, 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*.

In relation to REITs and ETFs, management companies must comply with paragraphs 13.22 and 13.23 of the *Guidelines on Listed REITs*, and paragraphs 11.27 and 11.28 of the *Guidelines on ETFs, respectively*. Participation of members is not restricted to physical presence but also includes members' online participation at the meeting.

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

The quorum of the meeting can be determined as follows:

- (a) Fully virtual and virtual general meeting – the quorum may 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

2.17 Must the online voting process support in time voting⁷ 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.

2.18 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.

2.19 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.

2.20 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

2.21 If the movement restrictions and physical distancing requirements are lifted, are listed issuers expected to conduct fully virtual, virtual hybrid general meetings?

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

⁷ 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.

communication with shareholders including leveraging technology to promote shareholder participation.

2.22 If the movement restrictions and physical 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 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.

- END -

APPENDIX A

LIST OF REVISION TO THE GUIDANCE NOTE AND FAQs ON THE CONDUCT OF GENERAL MEETINGS FOR LISTED ISSUERS

| Revision | Date | Details | Mode of conducting a general meeting | SC Time Limited Travel Exemption |
|----------|-----------------|--|--------------------------------------|----------------------------------|
| 1 | 14 May 2020 | In line with the Conditional Movement Control Order (CMCO); effective 4 May until 10 June 2020. | Virtual only | Required |
| 2 | 9 June 2020 | In line with the Recovery Movement Control Order (RMCO) effective from 10 June until 31 December 2020. | Virtual, hybrid or physical | Not required |
| 3 | 13 October 2020 | <p>In line with the Conditional Movement Control Order (CMCO) for Sabah, Selangor, Kuala Lumpur and Putrajaya; effective from 13 October 2020 until 27 October 2020.</p> <p>The Guidance Note also applies to other states or districts that are under the CMCO.</p> | Virtual only | Not required |

| Revision | Date | Details | Mode of conducting a general meeting | SC Time Limited Travel Exemption |
|----------|-----------------|--|---|----------------------------------|
| 4 | 9 December 2020 | In line with the issuance of the following Standard Operating Procedures (SOPs) by the Malaysian National Security Council (MKN): 1. SOP Perintah Kawalan Pergerakan Pemulihan (PKPP) ⁸ ; 2. SOP Perintah Kawalan Pergerakan Bersyarat (PKPB) ⁹ ; and 3. SOP Perintah Kawalan Pergerakan Diperketatkan (PKPD) ¹⁰ . | Virtual, hybrid or physical; subject to the requirements under the prevailing and applicable SOPs. A listed issuer shall not conduct a general meeting at a locality under the EMCO. | Not required |
| 5 | 12 January 2021 | In line with the issuance of the following SOPs by MKN: 1. SOP Perintah Kawalan Pergerakan (PKP) ¹¹ ; 2. SOP PKPB; and 3. SOP PKPP. | Only virtual for areas under MCO; subject to the requirements under the prevailing and applicable SOPs. Hybrid or physical meetings can only be conducted in areas under CMCO, RMCO or areas not | Required |

⁸ PKPP or Recovery Movement Control Order (RMCO)

⁹ PKPB or Conditional Movement Control Order (CMCO)

¹⁰ PKPD or Enhanced Movement Control Order (EMCO)

¹¹ PKP or MCO

| Revision | Date | Details | Mode of conducting a general meeting | SC Time Limited Travel Exemption |
|-----------------|------------------|--|---|---|
| | | | subjected to any movement restrictions. | |
| 6 | 19 February 2021 | In line with the issuance of the following SOPs by MKN: 1. SOP PKP; 2. SOP PKPB; and 3. SOP PKPP. | Only virtual for areas under MCO; subject to the requirements under the prevailing and applicable SOPs. Hybrid or physical meetings can only be conducted in areas under CMCO, RMCO or areas not subjected to any movement restrictions. | Not required |
| 7 | 5 March 2021 | In line with the issuance of the following SOPs by MKN: 1. SOP PKPB; and 2. SOP PKPP. | Hybrid or physical meetings can be conducted in areas under CMCO, RMCO or areas not subjected to any movement restrictions. | Not required |
| 8 | 5 May 2021 | In line with the issuance of the following SOPs by MKN: 1. SOP PKP; 2. SOP PKPB; and 3. SOP PKPP. | Only virtual for areas under MCO; subject to the requirements under the prevailing and applicable SOPs. Hybrid or physical meetings can be conducted in areas under CMCO, RMCO or areas not subjected to any movement restrictions. | Not required |

| Revision | Date | Details | Mode of conducting a general meeting | SC Time Limited Travel Exemption |
|-----------------|--------------|---|--|---|
| 9 | 1 June 2021 | In line with the announcement by the Prime Minister's Department on 28 May 2021 in relation to the implementation of a 'total lockdown' for 14 days beginning 1 June 2021. | Fully virtual only | Not required |
| 10 | 14 July 2021 | In line with the announcement by the Prime Minister on 14 June 2021 in relation to the implementation of the NRP and SOPs issued by MKN for Phase 1, 2, 3 and 4 of the NRP. | According to Phase 1, 2, 3 or 4 of the National Recovery Plan. Only <u>fully virtual meetings</u> can be conducted in areas under EMCO. | COVID-19 Intelligent Management System (CIMS) system. |

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