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Conducting Virtual or Hybrid Meetings for Companies, VCCs and BTs: Tabling of Bill, Amendment of Practice Notes

Introduction

To allow various business entities to convene, hold, or conduct their general meetings despite various movement control orders during the COVID-19 pandemic, the COVID-19 (Temporary Measures) (Alternative Arrangements for Meetings for Companies, Variable Capital Companies, Business Trusts, Unit Trusts and Debenture Holders) Order 2020 ("**Order**") came into effect on 27 March 2020 and was extended multiple times.

Since then, almost all COVID-19 movement restrictions have been lifted. Accordingly, the Ministry of Law ("**MinLaw**") announced that the Order will be revoked on 1 July 2023.

On 18 April 2023, the [Companies, Business Trusts and Other Bodies \(Miscellaneous Amendments\) Bill 2023](#) ("**Bill**") was tabled for First Reading in Parliament (and is expected to be tabled for Second Reading in May 2023). Among other matters, the Bill enables the continued utilisation of virtual and hybrid meetings. Key changes include:

1. Clarifying that companies, variable capital companies ("**VCCs**") and business trusts ("**BTs**") have the option to conduct fully virtual or hybrid meetings; and
2. Ensuring that the rights of the members of the companies and VCCs and unitholders of BTs to attend and participate in such general meetings are safeguarded.

To provide additional guidance on the conduct of general meetings for issuers (including an issuer that is a REIT or BT) primary-listed on the Mainboard of the Singapore Exchange Securities Trading Limited ("**SGX-ST**") and Catalist (collectively "**Issuers**"), the Singapore Exchange Regulation ("**SGX RegCo**") issued amendments to [Practice Note 7.5 \(General Meetings\) of the SGX Mainboard Rules](#) and [Practice Note 7E \(General Meetings\) of the SGX Catalist Rules](#) (collectively "**Practice Notes**"). Key changes include:

1. Provisions relating to the conduct of hybrid general meetings; and
2. Shareholders' rights to fully participate in such meetings.

We cover the key points of the Bill and the Practice Notes relating to the holding of virtual or hybrid meetings below.



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Bill: Virtual and Hybrid Meetings for Companies, VCCs, and BTs

Among other matters, the Bill will amend the Companies Act 1967, Variable Capital Companies Act 2018, and the Business Trusts Act 2004 (collectively "**Acts**") to allow companies, VCCs and BTs to conduct virtual only and hybrid meetings. If passed, the relevant provisions ("**New Provisions**") will come into effect on **1 July 2023**. This will provide companies, VCCs and BTs with the option to conduct general meetings by electronic means after the Order is revoked.

Key amendments relating to virtual and hybrid meetings in the Bill are:

1. **Inserting a definition of "virtual meeting technology"** to refer to "any technology that allows a person to participate in a meeting without being physically present at the place of meeting".
2. **Providing that companies, VCCs and BTs may hold meetings using virtual meeting technology (whether wholly or partly)**. This applies to, among others, annual general meetings, extraordinary general meetings, and certain meetings ordered by the court.
3. **Addressing technological disruptions, malfunctions or outages during a meeting conducted using virtual meeting technology**. An affected meeting will not be invalidated unless the court is of the opinion that such issues have caused or may cause substantial injustice that cannot be remedied by any order of the court, and by order declares the meeting to be invalid.
4. **Addressing conflicts between the constitution or trust deed of a company, VCC, or BT and the New Provisions**. By default, the New Provisions will prevail unless the company, VCC, or BT amends its constitution or trust deed to exclude their application.
5. **Clarifying how certain references in the Acts may be applied to a meeting held using virtual meeting technology**. These are references to, among others, attendance, presence, voting, the entitlement or right to vote at a meeting, the entitlement or right to be heard, the right to speak on a resolution, and the right to speak at a meeting. For instance, "any person (including any member of a company) attending a meeting" would now include persons attending the meeting using virtual meeting technology.
6. **Providing for the making of future regulations regarding the use of virtual meeting technology**.

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Practice Notes: Hybrid General Meetings for Issuers

Key amendments to the Practice Notes are:

1. **Inserting the same definition of "virtual meeting technology" as the Bill**, namely "technology that allows a person to participate in a meeting without being physically present at the place of meeting".
2. **Expressly providing that Issuers may hold hybrid meetings**, namely holding a general meeting at a physical place in Singapore and using virtual meeting technology.
 - a. Issuers that are unable to hold physical meetings in Singapore due to the laws and regulations of their country of incorporation and in accordance with their constitution, must allow shareholders in Singapore to participate using virtual meeting technology ("**virtual participation**") unless prohibited from doing so due to restrictions in their jurisdictions or constitutions. Such restrictions should be demonstrated to the Exchange.
 - b. Issuers who neither hold physical meetings in Singapore nor allow virtual participation, should hold physical information meetings in Singapore.
3. **Setting out the rights of shareholders to participate fully in general meetings**, regardless of the meeting format. This includes the right to attend, ask questions (for example, ahead of the meeting by way of email or during the meeting via videoconferencing), communicate views, appoint proxies, and vote.
4. **Setting out requirements for the notice of general meeting if virtual meeting technology will be utilised**. The notice must include (i) the arrangements for virtual participation; and (ii) how the use of real-time remote electronic voting and real-time electronic communication will be conducted. The Practice Notes also specify the timeframe for the dissemination of notices convening general meetings, being 14 calendar days (or 21 calendar days where special resolutions are proposed).
5. **Setting out requirements for hybrid meetings**, namely:
 - a. processes for the share registrar to verify and authenticate the identities of shareholders attending virtually;
 - b. real-time remote electronic voting, ensuring that the electronic voting system will (i) count votes accurately, (ii) provide an audit trail of records on its operation including accuracy of the recording and counting of votes, and (iii) verify that each vote cast is by a shareholder entitled to vote;
 - c. real-time electronic communication so that shareholders can follow the proceedings and raise questions; and
 - d. be at no cost to shareholders.

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Issuers conducting hybrid meetings are also encouraged to have regard to the [Standard for Vendors of Virtual/Hybrid General Meeting Systems](#) that was [published](#) by SGX RegCo, the Singapore Institute of Directors, and the Chartered Secretaries Institute of Singapore on 24 November 2022.

The amendments to the Practice Notes apply to general meetings held on or after **1 July 2023**, regardless of when the notice of general meeting is disseminated. Issuers who are conducting general meetings held on or before 30 June 2023 may continue to refer to the [Checklist](#) issued by ACRA, MAS and SGX RegCo, read together with the [Regulator's Column](#) issued by SGX RegCo.

Issuers constituted in Singapore are reminded that the Practice Notes do not override the provisions of the Acts (when amended on 1 July 2023).

Further Information

For further information, please click on the following links:

- Rajah & Tann February 2023 Client Update titled "[ACRA/MAS/MOF Seek Comments On Legislative Amendments to Allow Virtual Meetings for Companies, VCCs and BTs](#)"
- [Summary of responses to consultation feedback on the conduct virtual and hybrid meetings](#) published on 13 April 2023 (available on the MAS website at <https://www.mas.gov.sg/>)

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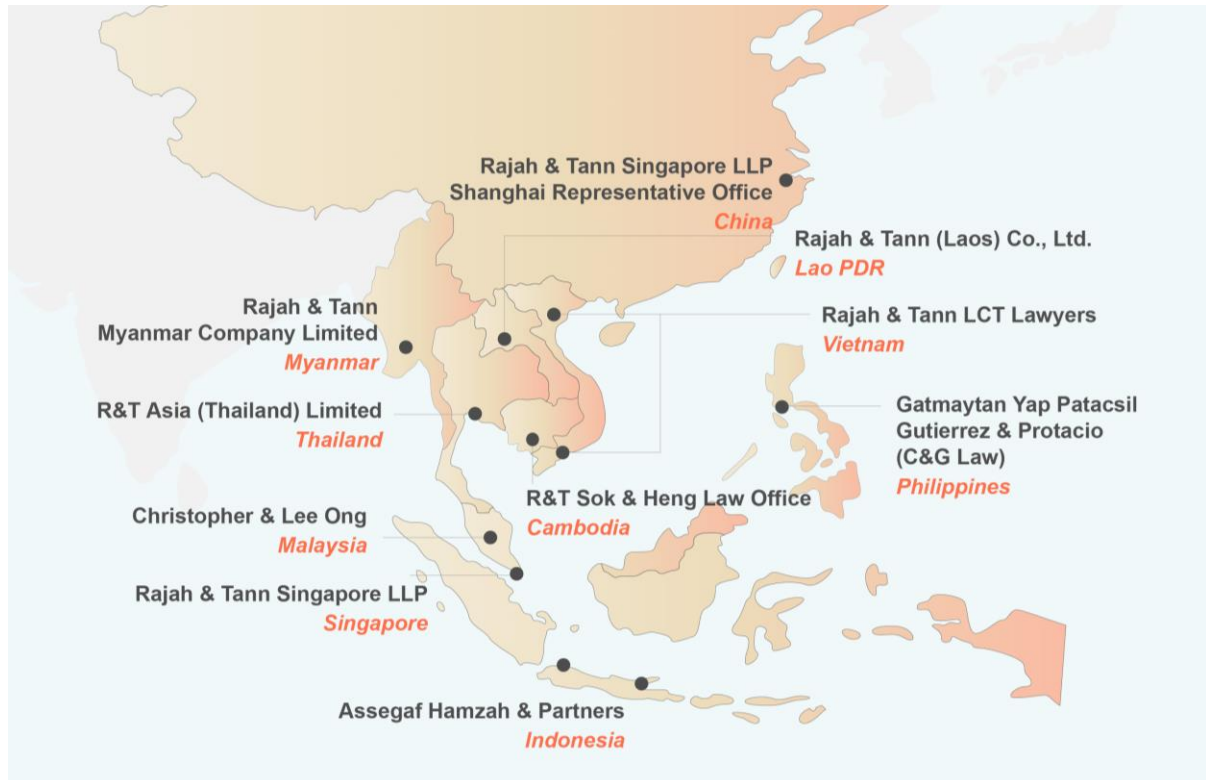
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