MINORITY SHAREHOLDERS WATCH GROUP

BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD

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GOLD STANDARD

EMBRACING HYBRID AGMs

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ACROSS the Straits of Johor, the Singapore government, via the Law Ministry, has announced that the Covid-19 (Temporary Measures) (Alternative Arrangements for Meetings) Orders (the Meeting Orders) will cease with effect from July 1.

The Meetings Orders were introduced in April 2020 as part of the Covid-19 (Temporary Measures) Act 2020 allowing entities such as companies, variable capital companies and business trusts to hold annual general meetings (AGMs) through electronic means, even if this was prohibited under any written law or legal instrument. (Source: Article titled "Permanent rules for Singapore listcos to continue virtual meetings a given, say pundits," published on Jan 13 in *The Business Times*).

The ministry said the decision to revoke the Meeting Orders was in line with the transition towards living with Covid-19. Therefore, meetings can be held physically after the effect of the revocation. Nevertheless, pundits expect amendments to be made soon to the related regulations to make virtual meetings an available option to public-listed companies (PLCs).

Currently, the Accounting and Corporate Regulatory Authority and Monetary Authority of Singapore (MAS) are working on legislative amendments to allow entities to conduct general meetings electronically after the orders are revoked.

At the same time, the Singapore Exchange Regulation will work closely with MAS to guide listed issuers to have the option to conduct hybrid meetings.

AGMs in Malaysia

Similarly, in Malaysia, PLCs have the option to hold their AGMs in three different formats — physical, virtual and hybrid.

When it comes to the physical and virtual AGMs, both have their advantages and disadvantages. As such, we must talk about which outweighs the other.

The main advantage of a virtual AGM is that anyone can attend from anywhere. It is convenient because there is no travel time and no travel-related costs.

In the physical AGM era, shareholders from remote locations could participate in AGMs that they could not attend personally through proxies — a practice that is both alive and well.

The main disadvantage of virtual AGMs is that shareholder questions may be ignored blatantly. In such instances, all that is left for shareholders to do is to pound the keyboard furiously, hoping that their questions will be answered.

Alternatively, the chairman may declare that there are no more questions when there are many more. Sometimes, shareholders get an answer but it does not sufficiently address the question asked. And shareholders are unable to articulate their questions better.

But as far as the company is concerned, it has answered the question and that is the end of it. It is debatable whether it is a genuine misunderstanding of the question or a convenient ploy to evade difficult questions.

With physical AGMs, shareholders are better empowered to ask their questions and the chances are high that these questions will be satisfactorily answered as opposed to being ignored or receiving unsatisfactory answers. The interactive medium of a physical AGM ensures this.

In a physical AGM, directors and shareholders can express themselves better given the host of attributes available to them, especially the articulation and body language aspects.

There is also a lower risk of the Q&A session being aborted prematurely as shareholders will inevitably stand up and state that they have more questions and that more time should be allotted.

Physical AGMs nurture better accountability from the board and promote shareholder activism better. They share control with shareholders while virtual AGMs give unilateral control to the board.

Hybrid AGM

Then we have the hybrid AGM — the gold standard in conducting AGMs. It is the preferred mode under the Malaysian Code on Corporate Governance (MCCG) but its adoption has yet to catch on.

Only five of the 400 PLCs monitored by MSWG have adopted the hybrid mode. The reluctance is primarily due to cost and logistics.

The hybrid AGM requires a physical venue and a virtual platform, both with associated costs. The overall costs are, therefore, twofold. Some companies are reluctant to foot these bills even though they get to enjoy a mode that provides the best of both worlds.

In terms of logistics, the chairman would have to address questions coming from the floor and those coming through the virtual platforms. Some companies may not be able to do this seamlessly.

PLCs, especially large companies with a high level of shareholders turnout, have the resources required and may benefit more from holding hybrid meetings. The costs are justified.

While hybrid meetings are the best from the shareholders' perspective, we are concerned that a blanket approach of requiring all PLCs to have hybrid meetings may be overly prescriptive.

For now, hybrid AGMs continue to remain on the backburner with a low take-up despite it being an advocated practice in the MCCG. There have been limited efforts to gain more traction for the adoption of hybrid AGMs.

Perhaps, some form of regulatory concession or guidelines would help to move the needle forward faster.

While hybrid meetings are the best from the shareholders' perspective, we are concerned that a blanket approach of requiring all PLCs (public-listed companies) to have hybrid meetings may be overly prescriptive.

The writer is chief executive officer of Minority Shareholders Watch Group.