

MINORITY SHAREHOLDER WATCHDOG GROUP

BADAN PENGAWAS PEMEGANG SAHAM MINORITI BERHAD
(Incorporated in Malaysia – Company No. 524989-M)

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by Gineah Ehor Sool

THE Minority Shareholder Watchdog Group (MSWG) will propose to the regulatory authority to emulate Japan in limiting the number of daily annual general meetings

(AGMs). This is to reduce the probability of shareholders with two or more AGMs scheduled at the same time and day from having to miss their meetings.

A sensible proposal is to limit the number of AGMs to not more than 15 per session or 30 per day, according to MSWG CEO Rita Benoy Bushon.

"The clustering of meetings which average 22 in a day for 2015 and 47 at the peak meant that shareholders would not be able to participate at their AGMs," Bushon tells *FocusM*. "Most AGMs – about 56% – were held in May and June as this coincided with the Dec 31 financial year-end."

As a result of the clustering of AGMs, popular venues and dates were snapped up quickly. Based on MSWG's observation, the most popular day last year was Thursday with June 25 posting the highest number of AGMs at 47.

Another development that the shareholders' activist group is keen to put in place is the disclosure of the summary of proceedings or meeting minutes within a month from the staging of a particular AGM.

"Notwithstanding the said statutory right of shareholders to inspect AGM minutes, listed companies [PLCs] should publish detailed AGM minutes voluntarily," Bushon points out.

She further asserts that in the absence of either the commentary to

Limit number of AGMs per day

MSWG to propose not more than 30 in a day as shareholders may miss some meetings

Recommendation 8.1 of the Malaysian Code on Corporate Governance or paragraph 7.15 of the Listing Requirements or both be amended to mandate the publication of AGM minutes, it is recommended that companies respond positively to MSWG's call for voluntary publication of AGM minutes on a timely basis, preferably within 30 days after the conclusion of the said meeting.

Vote counting

Additionally, Bushon also urges for more scrutineers (ie company auditor who is independent of company management) to oversee the process of vote-counting which is often conducted by the company chairman or company secretary.

"Although the outcomes of the AGMs were often prepared by the next day for almost all companies, most just provided a one-line statement," reveals the *Report of AGM Practices by Malaysian Companies* which is published by the MSWG. "Very few gave the details of the voting results indicating the number of shares and percentage voted for and against." Moreover,



Listed companies should publish detailed AGM minutes voluntarily, says Bushon

only 6% of PLCs had minutes of their AGMs disclosed on their websites last year.

While voting by a show of hands merely counts the number of people voting for or against a proposal, it takes no account of the number of votes that each voter is entitled to, and could therefore be prejudicial to the outcome of a crucial decision.

By contrast, poll voting takes into account the number of shares each voter has and therefore, a better reflects the mix of shareholders present in the meeting.

"No doubt, voting by a show of hands is a quicker and simpler process to manage, and is normally used for simpler resolution such as occasions of non-continuous election or reflection of directors and auditors where the affair is settled in a minute or two," explains the *Report of AGM Practices by Malaysian Companies*. "In serious and substantive resolutions involving corporate proposals and related party transaction, poll voting has already been instituted as a rule as of end-2012."

The listing rules require AGMs to be held within six months of a PLC's financial year-end, with the company's annual report to have been distributed to all shareholders at least three weeks prior to the AGM date. The final annual audited accounts for the year must be released within five months for last year. It has been changed to four months from this year. *FocusM*

Do's & Don'ts for directors

- 1 Publish AGM minutes within 30 days
- 2 Ensure all agenda items are well-explained in the notice of the AGM
- 3 Explain the rights of shareholders, management and board of directors
- 4 Allow shareholders to raise relevant questions
- 5 Have independent scrutineers
- 6 Prepare for poll voting

- 1 Be late for the AGM
- 2 Accumulate questions before responding
- 3 Limit the time for Q&A
- 4 Absent especially when seeking re-election
- 5 Allow bundling of resolutions
- 6 Allow frivolous singing sessions and irrelevant commentaries

Mandating poll voting

VOTING by a show of hands has been the norm because it is easy and arguably a cost-effective mechanism without necessarily diminishing the appeal of shareholder democracy. However, on a matter of principle, the Minority Shareholder Watchdog Group (MSWG) views that voting by poll is clearly a superior mechanism to demonstrate shareholder democracy of 'one-share, one-vote'. It thus recommended that the following be looked into:

- Poll voting to be mandatory for all resolutions proposed in a general meeting;
- An independent party is appointed to act as scrutineer to validate the votes cast during a general meeting; and
- For companies with the major

shareholder holding more than 50% of the voting rights, the votes of minority shareholders should be counted separately. And both major and minority shareholders must agree for the votes to go through.

Elsewhere, the MSWG is also in favour of encouraging electronic voting, given there is no restriction to use technology in order to enhance the opportunity of participating in a general meeting. Towards this end, MSWG recommends that companies – in collaboration with other stakeholders or gatekeepers such as the company secretary association, share registration companies and/or the stock exchange – develop a cost-effective and efficient secure e-voting platform.