



ASIAN CORPORATE GOVERNANCE ASSOCIATION

IMPACT OF COVID-19 ON AGMS IN ASIA-PACIFIC: THE RISE OF
ELECTRONIC MEETINGS

Agenda

1. Background: ACGA market ranking of CG ecosystems in Asia-Pacific
2. Definitions: “Hybrid” vs “Virtual” meetings
3. Impact of COVID-19 on the timing and form of AGMs
4. AGM survey data 2020
5. Practical AGM guidance
6. Legal and governance issues

History and focus

ACGA has played an influential and constructive role in raising standards of corporate governance in Asia-Pacific for the past 21 years.

We are a not-for-profit membership association founded in Hong Kong in 1999, shortly after the Asian Financial Crisis.

The core of our work is CG/ESG research, advocacy, and education across 12 major markets. We are funded entirely by our members, 70% of which are institutional investors. In order to maintain our independence, ACGA does not accept government grants, regulatory sponsorship or any other form of financial support that could create a conflict of interest for us.

Market-level research forms the basis for everything ACGA does. It is the foundation for our regular reports and surveys. It informs all our advocacy with regulators and corporates. And it is the starting point for our conference and other educational programmes.

ACGA Member Network

115 member firms*

70% are investors:
\$30+ trillion in global AUM

Foreign and Asian
asset owners and
managers

Leading Asian
companies

Top 5 global
CPA firms

3 regions: Asia-
Pacific, Europe,
North America

**Membership is by company. For a full list of members, go to our website [Member](#) page.*

ACGA advocacy

Our advocacy is focussed on systemic issues of corporate governance at the regulatory and corporate level. We engage directly and regularly with financial regulators and stock exchanges around the region. We interact with companies mostly through our four working groups: China, India, Japan, Korea.

Selected achievements:

- **Region-wide:** Multi-year campaigns on AGMs have led to improvements across the board in voting by poll, earlier meeting notices, more detailed meeting circulars, announcement of voting results.
- **Japan:** The 2008 ACGA White Paper on Japan was a catalyst for reforms in regulation (board independence, shareholder rights, AGMs and voting by poll) and corporate practices (capital efficiency, poison pills, more transparent AGMs, independent directors).
- **Korea:** Four investor delegations since 2016 have helped to open up dialogue with the large chaebol and other leading corporates on issues such as diverse boards and capital returns, and provided a coordinated investor response on certain company situations.
- **India:** The 2010 ACGA White Paper on India was a catalyst for reforms in related-party transactions, preferential warrants, AGMs and voting by poll.
- **China:** Our 2018 China CG Report was the first publication to explain the unique system of CG in China to a foreign audience and advise Chinese companies on global CG/ESG best practices of relevance to them.

1. Background: ACGA market ranking of CG ecosystems in Asia-Pacific

CG Watch 2018: market rankings and scores		
Market	Total (%)	Key CG reform themes and questions
1. Australia	71%	Bank governance needs overhaul, time for a federal ICAC
2. Hong Kong	60%	Going backwards on DCS, about to go forwards on audit regulation
3. Singapore	59%	Going backwards on DCS, reform direction reflects contradictory ideas
4. Malaysia	58%	Can new government rid the system of corruption and cronyism?
5. Taiwan	56%	Moving forward, yet piecemeal reforms hinder progress
6. Thailand	55%	Moving forward, yet corruption and decline in press freedom are concerns
=7. India	54%	Bank governance needs overhaul, new audit regulator disappoints
=7. Japan	54%	Heavy focus on soft law needs to be balanced with hard law reforms
9. Korea	46%	Stewardship code gaining traction, but sadly so is DCS
10. China	41%	Reinforcement of Party Committees raises numerous questions
11. Philippines	37%	CG reform low on the government's priorities, direction unclear
12. Indonesia	34%	CG reform low on the government's priorities, direction unclear

Source: Asian Corporate Governance Association, December 2018

We are working on our new CG Watch 2020 survey.

2. Definitions: “Hybrid” vs “Virtual” meetings

Hybrid: A physical meeting that is transmitted electronically and allows minority shareholders (retail or institutional) to participate in person or online.

Virtual: A fully electronic meeting with minority shareholders participating only online.

Key qualifications:

- Hybrid meetings must allow some level of in-person minority shareholder participation in addition to any directors and professional or technical support staff who need to be in attendance.
- Virtual meetings may not strictly speaking be 100% online, since it is a requirement in certain markets for the chairman and/or a small number of directors (who may also be shareholders) to attend for quorum or other legal purposes. Such meetings often have company support staff in attendance. Our definition of “virtual” includes these meetings too, since physical participation is minimal and no minority shareholders are physically present.

3. Impact of COVID-19 on the timing and form of AGMs

Regulators across the region have allowed considerable flexibility in the holding of AGMs and encouraged the use of new technology:

- Blanket extensions for AGM deadlines
- Active encouragement of hybrid and/or virtual meetings
- Active encouragement of proxy voting electronically before AGMs
- Guidance to companies on how to manage the physical meeting element (if still permitted) and the new virtual experiment
- Regulators who cannot give blanket extensions for AGMs are announcing “no action” positions on companies who fail to hold meetings on time (Australia)
- In some cases, governments have passed emergency amendments to company law or other regulation allowing for virtual meetings

Brave new world

Extended AGM deadlines and arrival of electronic meetings in Asia-Pacific, 2020

	Standard AGM period	2020 extensions	Key regulatory action
Australia	5 months	2 months	Government amended company law to allow fully virtual AGMs. ASIC “no action” statement.
China	6 months	-	Stock exchanges encouraged shareholders to vote online before and on day of AGMs.
Hong Kong	6 months	Case-by-case	Physical meetings permitted, but limits on participation (50 people per room).
India	5 months (top 100)	1-4 months	MCA temporarily relaxed regulation allowing electronic AGMs in 2020.
Indonesia	6 months	2 months	Accelerated implementation of new electronic voting system (“e-GMS”) from PT KSEI.
Japan	3 months	Case-by-case	METI guidance on hybrid meetings in February 2020 (a pre-COVID policy development).
Korea	3 months	Case-by-case	Encouraged shareholders to vote online before meetings and not attend in person.
Malaysia	6 months	3 months	SC guidance in mid-April 2020 on “fully virtual meetings”. Made mandatory during MCO.
Philippines	Per company articles	2 months	SEC guidance in March 2020 on participation in electronic meetings.
Singapore	4 months	2 months	Guidance in March/April 2020 on virtual meetings. Mandatory from late-March to end-Sept.
Taiwan	6 months	-	(No guidance considered necessary due to limited impact of COVID-19.)
Thailand	4 months	Case-by-case	SEC encouraged shareholders to vote online.

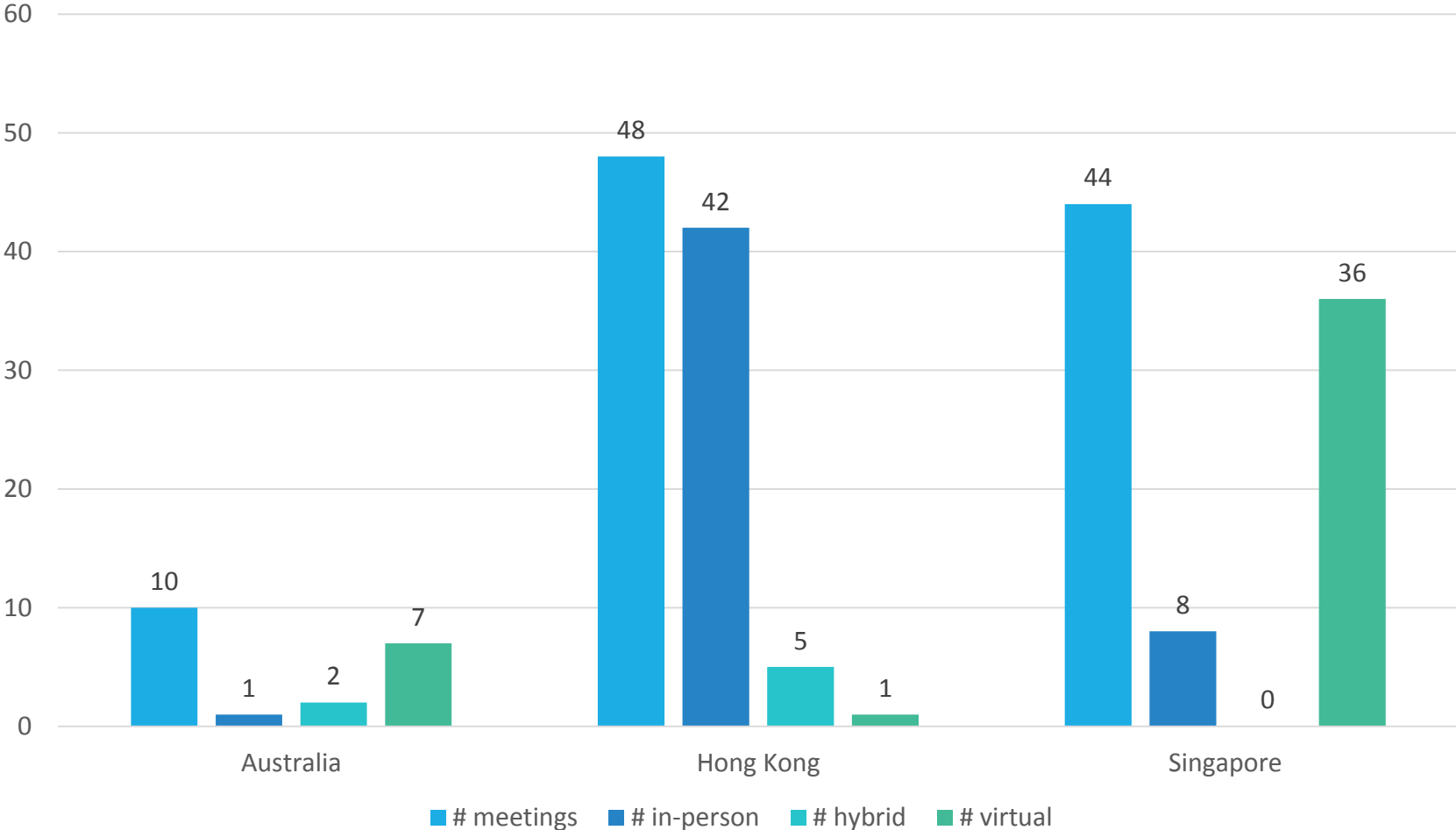
Source: ACGA research

4. AGM survey data 2020

- ACGA reviewed the AGMs of the top 50 companies by market cap in five markets: Australia, Hong Kong, India, Malaysia, Singapore.
- Key questions asked:
 - Has the annual meeting been held (as of 24 July 2020)?
 - Was it in-person, hybrid, or virtual?
 - If virtual, did the chairman, directors and support staff need to attend for quorum or other legal purposes?

See over for results

AGM modes in Asia-Pacific: Australia, Hong Kong, Singapore (July 2020)



Australia

- Most companies have a 30 June year-end, with AGMs in November.
- The one in-person meeting was held in February 2020 (ie, before the pandemic really took hold).
- Issuers arranging the two hybrid meetings asked shareholders to vote online and not attend in person.

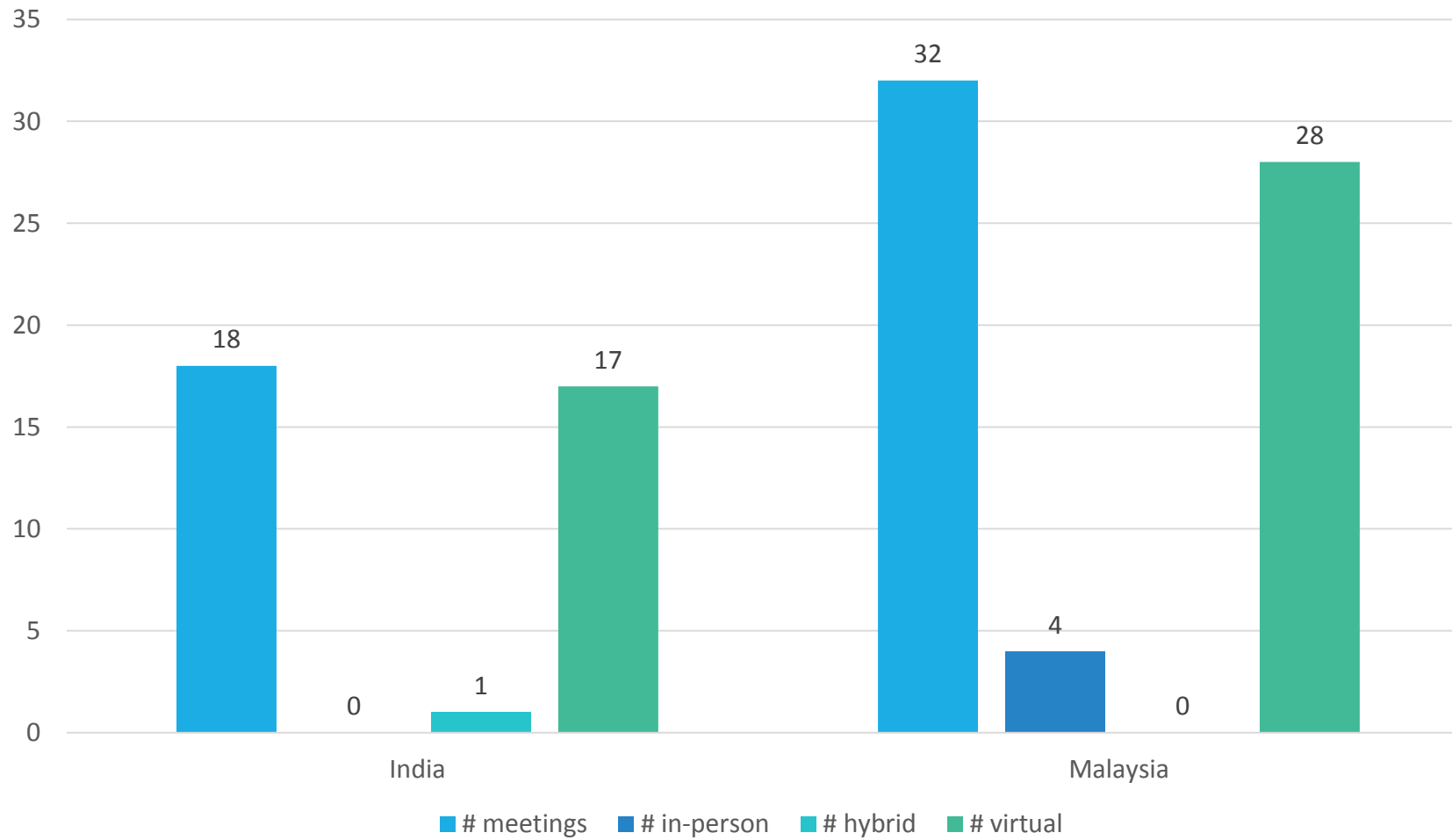
Hong Kong

- The vast majority of issuers with in-person meetings were China-controlled firms (H shares, red chips, Cayman-incorporated) and their AGMs were held in China.
- Ironically, none of the big tech firms (Tencent, Xiaomi, Meituan) provided an electronic meeting platform for their shareholders!
- Three of the five hybrid meetings were local HK firms.

Singapore

- For regulatory reasons, meetings in Singapore at present are virtual.
- Five of the eight in-person meetings were Jardine companies and held in Bermuda. The other three were held in January 2020.

AGM modes in Asia-Pacific: India, Malaysia (July 2020)



India

- Most companies have a 31 March year-end, hence AGMs not held yet.
- Regulators have been strongly promoting virtual meetings (through “video-conferencing and other audio visual means”).
- Distinction between “e-voting” and “remote e-voting”: the former is electronic voting on the day during the live video conference, while the latter is voting by proxy before the meeting.

Malaysia

- Large number of virtual meetings a result of Securities Commission guidance from mid-April. Physical attendance not permitted except for a small number of key people at the “broadcast venue”, including the chairman, CEO, CFO, company secretary, auditor, and those providing technical support. Maximum of eight people.
- Fully virtual meetings were mandatory during the Movement Control Order (MCO) period, which ended on 12 May, and have been encouraged since. Since the start of the Recovery MCO on 10 June, issuers can choose to hold virtual, hybrid or in-person meetings.
- The four in-person meetings in our graph were held in January and February 2020.

5. Practical AGM guidance

Regulators across the region have provided quite detailed practical guidance on how to run electronic AGMs effectively. Common themes include:

- Companies should encourage shareholders to vote by proxy before AGMs, either through electronic means or post.
- Companies should/must allow shareholders participating in the AGM to ask questions, at least in written form before the meeting.
- If shareholders are permitted to attend in person, proper social distancing and health measures should be put in place, and the total number of attendees limited (eg, 50 persons).
- Companies should not provide gifts that might encourage retail shareholders to attend in person, nor food that will encourage them to linger afterwards.
- Clear instructions must be provided to shareholders on how to access the live electronic feed (video and audio) or live audio only, and what pre-registration measures they must undertake.

6. Legal and governance issues

For most companies and markets, this is Year Zero for hybrid and virtual meetings in Asia-Pacific. While everyone is on a steep learning curve, some important questions are emerging:

Legal

- Does the company law in your jurisdiction allow for electronic shareholder meetings?
- If yes, does it permit fully virtual or only hybrid meetings?
- If yes, do you need to amend your Articles to permit a hybrid or virtual meeting?
- Do you also need to amend your articles to allow real-time e-voting?

The validity of AGM decisions may be challenged if your constitution does not allow for a hybrid or virtual meeting and you go ahead anyway.

Governance questions

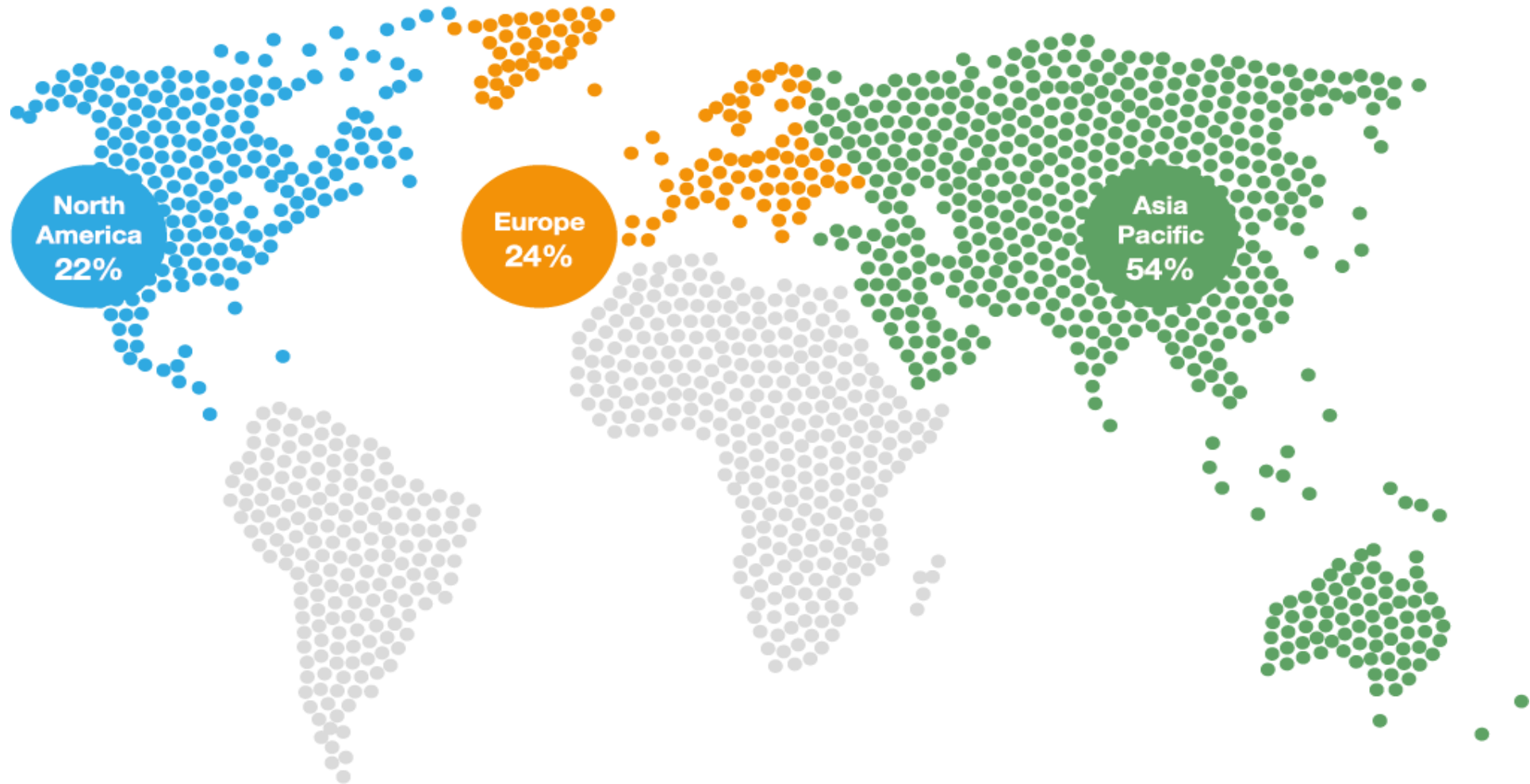
When done well, an electronic meeting can broaden shareholder participation. But does (or will) this come at the cost of a shallower experience and a less accountable, interesting event?

- To what extent have electronic AGMs in 2020 been “meeting platforms” as opposed to “broadcast platforms”? That is, two-way or one-way events.
- In many places, votes must be cast by proxy and questions submitted beforehand. Why is so little real-time voting taking place? Who selects the questions to be answered?
- Some companies have taken the opportunity of COVID to hold in-person meetings in remote or distant locations and not provide any form of electronic communication—including high-tech firms!
- Some companies have deliberately shortened their meetings. But if a meeting is virtual, why should it be short?
- Do companies time their meetings for the maximum possible participation of shareholders around the world?
- Will companies use hybrid or virtual meetings to shrink their physical meetings in future?

Appendices

1. ACGA membership by region
2. Recent ACGA advocacy submissions

Membership by region – **115 members from 19 markets**
Total assets under management – **more than US\$30 trillion**



Recent ACGA advocacy submissions

2020

- **Taiwan Stock Exchange** on Revised Stewardship Code
- **Hong Kong Exchanges and Clearing** on Corporate WVR
- **Ministry of Finance Japan** on the final Foreign Exchange and Foreign Trade Act regulations
- **Financial Services Agency Japan** on revised Stewardship Code

2019

- **Ministry of Finance Japan** on amendments to the Foreign Exchange and Foreign Trade Act
- **Securities and Exchange Board of India** on Auditor Resignations
- **Hong Kong Exchanges and Clearing** on amended ESG Reporting Guide
- **Securities and Exchange Board of India** on issuance of shares with Differential Voting Rights (ie, dual class shares)

2018

- **China Securities Regulatory Commission** on new “Code of Corporate Governance for Listed Companies in China,” which replaces the first CG Code from 2002
- **Singapore Monetary Authority** on amended CG Code
- **Hong Kong Exchanges and Clearing** on “Weighted Voting Rights for Emerging and Innovative Sector Companies”
- **Hong Kong Legislative Council** on proposed bill for an Independent Audit Regulator

2017

- **Singapore Exchange** on “Possible Listing Framework for Dual-Class Share Structures”
- **Financial Services Agency Japan** on revised Stewardship Code

➤ For all ACGA advocacy submissions, white papers, and presentations since 2004, go to our website [Advocacy](#) page.

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