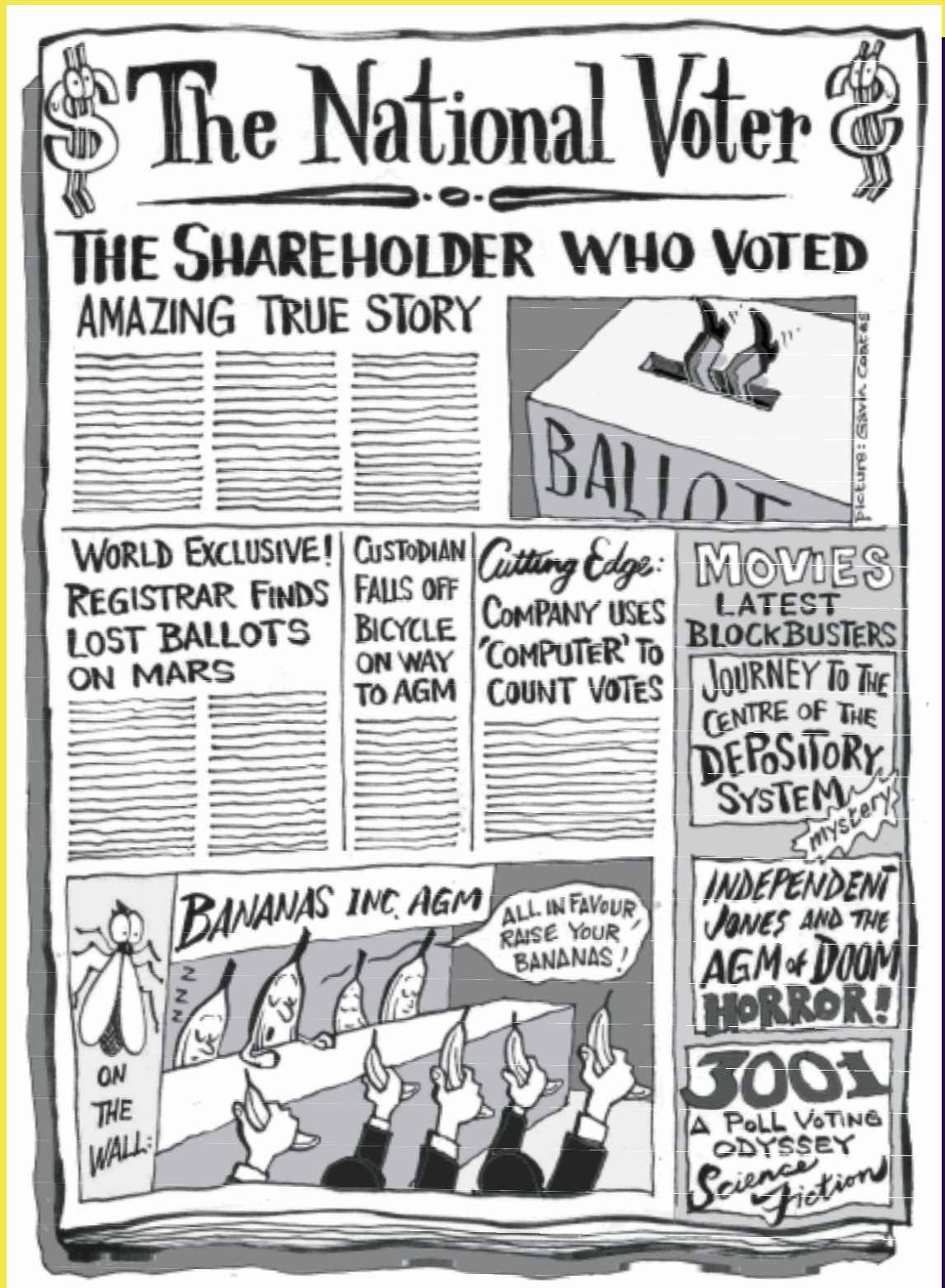


### Key findings

- Hong Kong is the clear leader in Asia. Yet well behind Australia, UK and US.
- Asian voting systems are antiquated and often disenfranchise investors.
- Electronic voting systems needed.

### Market rankings

1. Hong Kong
2. Singapore
3. Malaysia
4. India
5. Philippines
6. Thailand
7. Indonesia
8. Korea
9. Taiwan
10. Japan



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**VOTING FOR CHANGE**

Bringing Proxy Voting Systems in Asia into the 21st Century

Authors: Jamie Allen, Oliver Jones

## ACGA Asian Proxy Voting Survey 2006

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The views expressed in this report are, however, solely those of ACGA. We also take full responsibility for the accuracy of its content.

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September 8, 2006

## Executive Summary

This is the inaugural report by the Asian Corporate Governance Association (ACGA) on the subject of impediments to proxy voting in Asia. It covers 11 Asian markets and three benchmark markets—Australia, UK and US. The material in this report is based on original research by ACGA and a survey of major institutional investors actively voting their shares in the region. The respondents to this survey manage in excess of US\$3 trillion globally.

### Key findings—by market

- Hong Kong emerges as the clear leader in Asia, several percentage points ahead of Singapore. Yet Hong Kong still scores well below Australia, UK and US.
- Japan and Taiwan are rated as having the weakest voting systems, with Korea not far behind.
- Most South-east Asian markets fall in the middle of the regional ranking tables.
- Due to the limited accessibility of China's A-share markets in Shanghai and Shenzhen, hence limited voting experiences among respondents, we chose not to include the China score in the main regional ranking but to put it below the other markets for reference purposes only.

### Key findings—by issue

- Proxy voting systems in Asia are, by and large, seriously antiquated and in need of improvement. Investors are being disenfranchised.
- The top-five areas of concern included: Lack of independent audit of vote results; lack of publication of vote results; insufficient information on which to vote; no confirmation that vote has been received; and the prevalence of voting by show of hands rather than by ballot/poll.
- Removing the many impediments to proxy voting would, we believe, contribute to stronger and more efficient capital-market development in Asia.

### Recommendations/Actions Points

This report contains a series of recommendations on which listed companies, investors, regulators and intermediaries (custodian banks, share registrars) can act to help bring about significant improvements in proxy voting systems in Asia.

Most of the problems in voting systems around the region could be resolved quickly if the key players chose to act. And many of the solutions would not have to be regulatory driven. There is an opportunity for market players, primarily listed companies and investors, to resolve these issues efficiently and cost-effectively.

Something that will take longer to put in place is a national electronic voting platform. We strongly urge governments and stock exchanges to examine this issue as soon as possible.

# CHAPTER 1

## Introduction: Asia's Antiquated Voting Systems

Proxy voting systems across much of Asia are in a parlous state. Meeting agendas in some markets are changed shortly before annual general meetings and after institutional shareholders have voted by proxy. Companies often provide insufficient information on complex agenda items to their shareholders, who then cannot make informed votes. Even when investors receive the full agenda with sufficient explanation, they are normally left with only two or three days in which to cast their vote (if they are to meet the deadlines set by their global custodian banks). And annual reports are commonly not available before the annual meeting in many markets.

All of these problems relate largely to just one half of the process—the flow of information to shareholders prior to general meetings. The other half—the delivery, collating and counting of votes—is, if anything, in even worse shape.

Despite considerable and increasing investment by global institutional investors in creating dedicated “corporate governance units” to manage the voting process and ensure voting decisions are based on consistent analysis, and despite the efforts of proxy advisory and data-processing firms to improve voting efficiencies through greater use of information technology and the Internet, what happens at the end of the voting chain is antediluvian. Sub-custodian banks in most markets receive voting instructions electronically, but then have to print them out and fill in proxy cards manually (before sending the latter to the share registrars who collect and collate proxy votes for listed companies). Shareholders receive no confirmation from any share registrar in any market that their vote has been received. And the vast majority of listed companies in Asia continue to vote at annual shareholder meetings using the “show of hands” system (or a variation), rather than properly counting all votes received (called “voting by poll” or “voting by ballot”).

Voting by a show of hands is a 19th century solution to a simple problem dating from early limited liability companies—how to pass resolutions at annual meetings when the number of shareholders was small enough to fit around a boardroom table. Such a system is an extraordinarily antiquated way to manage the vote at the annual meeting of a modern listed company whose shareholders number in their thousands, where individual stakes range from a few hundred to many millions of shares, and whose larger institutional shareholders are likely to be based in a different country (hence cannot attend in person). When a vote is taken on a show of hands, each person attending the meeting has one vote on each resolution. An investor with 100 shares, therefore, has the same voting rights as a shareholder with 100,000 shares. And votes sent in by proxy—from shareholders who cannot attend—can easily be ignored. Unless all votes are properly counted, the process independently audited, and full details of results published soon after, shareholders voting by proxy will have no information as to what happened to their vote and whether it made any difference. This is without question one of the most egregious abuses practised in Asia's proxy voting systems.

Not all markets or companies in Asia are equally at fault in sustaining these inefficient and

outdated practices. The better listed companies in Hong Kong now voluntarily vote all meeting resolutions by poll (even though this is not a requirement) and publish independently audited voting results the next day. Their counterparts in Japan and Thailand release detailed meeting agendas well before the legal deadline—thus giving investors more time to make considered votes. And regulators in several markets are starting to become aware that their rules need revamping.

But such company examples and regulatory initiatives tend to be at the margin. They are not the norm. As this study will show, the average performance of listed companies in their management of shareholder meetings, and the quality of the rules governing such meetings, remain low throughout the region and in much need of improvement.

### **Did you know?**

A major sub-custodian bank in Taiwan recently decided that it will no longer execute the voting instructions of institutional clients in cases where clients want to vote against a resolution and the vote on that resolution is taken on a show of hands or “by acclamation”. It took this step because it has been publicly embarrassed at several company meetings when casting votes against and immediately being asked by management to justify itself. When it answered that it was merely following instructions and did not know why its clients wished to vote against, management often refused to accept this answer and in some cases became threatening and abusive.

## **Proxy voting and Asian capital markets**

Why should it matter whether proxy voting systems in Asia are fair and efficient? It matters because voting is a basic right of share ownership and issuers have a legal and moral obligation to facilitate it. It matters because securities markets in Asia are becoming increasingly internationalised—and cross-border investors who wish to vote should not have to face undue obstacles in trying to do so. And it matters because institutional investors, both foreign and domestic, are coming under greater pressure today to vote the shares they hold in their portfolios. Not to vote is increasingly seen by regulators, corporate governance advocates and many investors themselves as a dereliction of an institution’s fiduciary duty to its clients or beneficial owners. Conversely, active and informed voting is seen as something that can contribute to stronger, more disciplined capital markets.

Some data on the growth and change of share ownership by non-residents in Asia:

- In Taiwan, foreigners held 19.8% of shares by market value in 2001, but 31.7% in 2005.
- In Japan, foreign share ownership increased from an average of 18.8% in 2000 to 26.7% in 2005.
- The share of overseas trading on the Hong Kong stock exchange accounted for by US investors increased from 22% in 2002/3 to 29% in 2004/5, while the share of European and Asian investors declined. (Such an increase has yet to happen across all markets.)

The greater US presence in Asia is part of a broader move into international markets by American investors—the number owning foreign equities rose from 54% of US equity investors in 2002 to 63% in 2005. But even this is part of a longer term trend—the gross value of cross-border trading in foreign securities by US investors multiplied a hundred times between 1980 and 2000, rising from US\$53 billion to US\$5.54 trillion.

More international portfolio investors in Asia mean more voting decisions will be taken on a cross-border basis. That is to say, the person or persons making the voting decisions for a foreign fund may not be based in the region, but could well be sitting in Amsterdam, Boston, Frankfurt, London, Los Angeles, New York or Sydney. Or they may be working in the region for a fund that invests around Asia, hence could be voting China or Taiwan shares from Hong Kong or Singapore. The more that voting decisions are made from different countries, the more efficient and transparent the entire voting chain needs to be.

Lest it be thought that voting is largely a foreign preoccupation, with few local investors participating, it is worth pointing out that several major state pension funds in the region are taking a lead in their respective markets by developing corporate governance guidelines and/or proxy voting policies. This group includes the National Social Security Fund in China, the National Pension Corporation (NPC) in Korea, the Employees Provident Fund in Malaysia and the Government Pension Fund in Thailand. In December 2005, for example, Korea's NPC published a revised and detailed set of voting guidelines.

Nor is this only a state phenomenon. Probably the most impressive example of a pension organisation promoting proxy voting is Japan's Pension Fund Association (PFA), a private body. The PFA became actively interested in proxy voting around the turn of the century, when its investment returns turned sharply negative. Compared to a more than 10% return in 1999, it suffered returns of -5% in 2000, around -2.5% in 2001 and about -12% in 2002. It developed a set of voting guidelines and began actively to vote its own shares as a way to improve the governance of Japanese companies and enhance returns. It also encouraged its member organisations to vote. (Note: The PFA is both an association of corporate pension funds and an investor in its own right. It manages more than US\$110 billion in assets.)

In percentage terms, the volume of shares being voted by minority shareholders (institutional and retail) across Asia is relatively low. No study has been done to assess the extent of voting, but anecdotal and some limited statistical information suggests that in most markets, and for most shareholder meetings, no more than 20-30% of total shares held by minority shareholders are being voted. The exception is Japan, where a figure of at least 80% is commonly given by sub-custodian banks and proxy advisors. If true, this must be partly due to the PFA's efforts.

The next five to ten years, however, is likely to see a steady increase in the proportion of minority shareholders, especially institutions, voting their shares in Asia. Pressures on pension funds and fund managers to integrate corporate governance practices into their business and investment operations will likely continue, if not increase. Electronic voting systems are starting to be developed and, if successful, will make voting significantly easier. And regulatory and market developments overseas will almost certainly add to the momentum in this region.

## The international dimension

### European Union

Just as voting systems in Asia are in poor shape, those in other parts of the world have their problems too. In a speech in Brussels on June 27, 2006, the European Commissioner for Internal Market and Services, Charlie McCreevy, criticised the state of shareholder voting rights in Europe:

“It is minority shareholders, in particular, who often complain about the lack of transparency and there is often little which the minority can do but to sell their shares. That is why, at the very least, they must be able to cast informed votes at General Meetings, ask questions and table resolutions. You may think that this would go without saying. Unfortunately, we still see many examples to the contrary.”

He added:

“When it comes to the organisation of general meetings, existing national rules are outdated. They stem from the days when the assumption that all shareholders would be from the same jurisdiction and would be able to physically attend Annual General Meetings might have made some sense. These rules were also based on the assumption that only a limited number of well-informed people would invest in shares. All this is definitely no longer the case.”

And further:

“In the European Union, an average of 29% of share capital of listed companies is in the hands of shareholders who do not reside in same Member State as the company. In some countries, this proportion is as high as 70 or 80%. This is why restrictions on the appointment of proxies and other administrative constraints should have no place in the 21st century economy”.

Not surprisingly, broad-based institutional voting in Europe remains quite limited, with opaque and cumbersome processes, “share blocking” and cost listed as some of the main impediments. One Europe-based interviewee in our study noted that his fund focussed more on quality than quantity, remarking that if you had to vote, it was more of a compliance (than an engagement) issue.

#### **“Share blocking”**

Share blocking is a system used in Europe, but not Asia, for determining who is entitled to attend and vote at shareholder meetings. It is defined by the European Commission as “a practice which obliges investors to deposit shares at a designated institution for a certain period of time in advance of the general meeting, during which the shares are blocked from trading”. It is a problem because: “Many investors, particularly those from foreign jurisdictions, find blocking requirements unduly restrictive and are therefore reluctant to vote their shares, if they lose their ability to respond to market developments as a result.”

(Source: European Commission, “Fostering an Appropriate Regime for Shareholders’ Rights”, September 2004, p17)

It was to address these problems that the European Commission first launched a consultation on shareholder rights in September 2004. Its paper, "Fostering an Appropriate Regime for Shareholders' Rights", outlined in some detail the range of obstacles facing shareholders who wanted to vote and some possible solutions. With the exception of share blocking, many of the issues had a familiar ring about them:

- Investors, especially non-resident ones, not receiving information sufficiently ahead of time so that they can cast their vote;
- Legal restrictions on the right to ask questions and submit shareholder proposals;
- Shareholders facing difficulties "receiving the results of the votes and the minutes of the discussions (including answers to questions asked by shareholders)" and "the absence of any confirmation that votes have been executed as instructed".

Respondents came from a wide range of sectors (including issuers, institutional investors, financial intermediaries, proxy voting service providers, supervisory authorities and private investors) and a broad geographical area (20 countries). According to the Commission, "a clear majority of the respondents expressed general support for the orientation of the Consultation Document". There was also majority support for the idea that should the Commission propose a new directive on shareholder rights, such a document should include high-level principles and minimum standards only, rather than try to harmonise all the details of each country's laws.

The Commission followed this exercise with a second consultation paper (in May 2005) that sought views on the specific minimum standards that should apply to shareholder rights in listed companies in the European Union. Again, a wide range of responses were received, with most respondents supporting the introduction of minimum standards at the EU level and providing answers to detailed questions in the consultation paper (eg, the number of days notice that companies should give of their annual general meeting).

Having digested this feedback, the Commission released a formal proposal for a Directive on Shareholder Rights in January 2006. See the following table for a summary of the minimum standards proposed:

<b>Proposed EU Directive on Shareholder Rights (January 2006)</b>	
<b>Minimum standards</b>	
1.	General meetings should be convened with at least one month's notice. All relevant information should be available on that date at the latest, and posted on the issuer's website.
2.	"Share blocking" should be abolished and replaced by a record date set no earlier than 30 days before a meeting.
3.	The right to ask questions should be available to non-residents.
4.	The maximum shareholding threshold for tabling resolutions should not exceed 5%.
5.	Proxy voting should not be subject to excessive administrative requirements. Shareholders should have a choice of methods for distance voting.
6.	Vote results should be available to all shareholders and posted on issuer websites.

Source: European Commission press release, January 10, 2006

In his June 2006 speech, Mr McCreevy noted that the directive proposal was being examined by the Council of the European Union and the European Parliament. He said that the “state of the debate on the shareholder rights proposal in the European Parliament and the Council seems to show that we are on the right track”, and added that he hoped “this important piece of legislation” could be adopted soon.

## **United Kingdom**

In the UK, rules governing the rights of shareholders in general meetings are also undergoing reform. The British government has been working on a major Company Law Reform Bill for several years, part of which addresses the issue of “enhancing shareholder engagement and a long-term investment culture”. A white paper, “Company Law Reform”, issued in March 2005 by the Department of Trade and Industry (DTI) said that the Bill, once it became law, would “make it easier for shareholders, including indirect investors, to exercise their rights of ownership” and would “introduce a number of measures to enhance the timeliness and transparency of company information and proceedings”. These would include, for example:

- Giving shareholders of a public company the right, subject to certain conditions, to propose a resolution to be moved at the company’s annual general meeting; and having the expenses of circulating the proposal covered by the company.
- Requiring listed companies to disclose on their websites the results of any polls taken at general meetings.
- Allowing shareholders of listed companies, subject to certain conditions, to ask for an independent scrutiny of any vote taken on a poll.

The Bill would also enhance the rights of “indirect investors” (ie, institutional or retail investors holding shares not in their own name, but through an intermediary such as a broker or custodian bank) to “play a fuller role in company proceedings”. For example, it will make it easier and simpler for such investors to attend and speak at shareholder meetings, demand a poll, and vote on either a poll or show of hands.

The Company Law Reform Bill was published in November 2005 and introduced into the House of Lords soon after. The Lords began debating it in early 2006 before sending it to the House of Commons in May. Once the Commons completes its discussions of the Bill—now called just the “Companies Bill”—it will go back to the Lords for a further reading. The Lords will probably complete this process towards the end of 2006, an official at the Department of Trade and Industry (DTI) in London told ACGA. But that is not the end of the process, since various transitional arrangements need to be put in place and around 100 regulations amended before the new company law can be implemented. The DTI sees October 2007 as the earliest implementation date, but it could be delayed until April 2008.

## United States

The mechanics of proxy voting generally run more smoothly in the US than in other parts of the world. This is reflected in the conclusion to a recent report (June 2006) produced by the Proxy Working Group to the New York Stock Exchange (NYSE):

“This country has more than 15,000 public companies, and shareholders of all of these companies generally receive their proxy voting materials on a timely basis, and have the ability to vote their shares following full disclosure of all material information.”

The Group did, however, agree that the system could be improved. Indeed, the Group was formed by the NYSE in April 2005 to review the latter’s rules governing the proxy voting process. It made a number of recommendations for improvement, key among which was to no longer allow brokers to automatically vote their clients’ shares in director elections if these clients (or “beneficial owners”) have not provided specific voting instructions. The concern in the US has been that such broker votes help to ‘stuff the ballot’ and give management an unfair advantage.

Other recommendations included urging the NYSE to take a lead in educating investors about the complexities of the proxy voting process, to promote more effective communication between issuers and shareholders (something there was a “significant need for”), and to request the SEC to study the role of institutional advisory services that make “voting recommendations and/or decisions over shares in which they do not own or have an economic interest”.

At the national level, two key regulatory initiatives in recent years have included a requirement that investment management companies disclose their proxy voting policies and records, and a proposal to allow issuers to provide investors with proxy materials via the Internet. Both emanated from the Securities and Exchange Commission (SEC).

In 2003, the SEC mandated “registered management investment companies” (ie, mutual funds) to:

- Disclose how they vote proxies relating to portfolio securities they hold;
- Disclose the policies and procedures they use to determine how to vote their proxies; and
- File with the SEC and their shareholders the specific proxy votes that they cast in shareholder meetings.

In explaining its rationale for introducing this rule, the SEC noted that the assets held by mutual funds increased from only 7.4% of all publicly traded US corporate equity in 1992 to 18% by September 2002 (which in dollar terms equated to US\$2 trillion). Despite this significant growth in assets, and the fact that many Americans relied on mutual funds for income, funds had been reluctant to disclose how they voted. “We believe that the time has come to increase the transparency of proxy voting by mutual funds”, the SEC said in its final rule document. It also stated that, “Investors in mutual funds have a fundamental right to know how the fund casts proxy votes on shareholders’ behalf.”

Not surprisingly, the new rule received substantial support from individual investors, funds that already disclose their proxy voting record, labour unions, and pension trustees. It caused

controversy, however, among mutual funds in general. While many supported the idea that funds should disclose their proxy voting policies and procedures, they were less than enamoured about having to disclose their actual voting record. Three years on, however, much of the heat appears to have dissipated. As a senior mutual fund executive told ACGA: "Everyone was up in arms, but now it is really a non issue!" The fear that trade unions would use the disclosure of voting records against mutual funds, for example, has not been realised to the extent expected.

Meanwhile, in November 2005, the SEC proposed that issuers and others be permitted to use the Internet to deliver proxy voting materials. Traditionally, proxy statements and annual reports had to be sent to shareholders in paper form, although more recently there has been the option to invite shareholders to opt into electronic delivery (with retail as well as institutional investors doing so). To expand the use of electronic delivery, the SEC proposes to allow issuers to post proxy materials on their own websites and then notify shareholders about this at least 30 days before a meeting. The notice would have to include basic information about the meeting, where shareholders could find the electronic proxy materials, and a clear description of the matters to be decided at the meeting. It would then be up to shareholders to download the meeting materials—or go to the company to request the paper version.

According to the SEC website, there have been more than 140 responses to the proposal since late last year. Not all have been entirely supportive, with some questioning whether the new system would create added costs and difficulties for retail and institutional shareholders who preferred to receive meeting materials in paper form. Others have supported it, but made detailed suggestions for improvement. However the SEC chooses to respond to these submissions, what seems likely is that the electronic delivery of proxy materials will only increase in future.

### **International Corporate Governance Network (ICGN)**

The ICGN, a non-profit organisation, was formed in 1995 by a group of mostly North American and European institutional investors, companies and professionals concerned about corporate governance issues. It has grown to a membership of more than 400 organisations and individuals in 38 countries, including many in Asia, and its institutional investor membership base manages around US\$11 trillion in assets.

In 1998, ICGN developed a broad set of "Global Share Voting Principles" covering issues such as equal and fair voting rights, meeting notices, meeting agendas, voting deadlines, share blocking and so on. Two years later it reviewed the extent to which these Principles were being implemented in major markets around the world and highlighted a number of concerns regarding Australia, France, Japan and the US. It then decided to set up a standing committee on share voting. Now called the Cross-Border Voting Practices Committee, its terms of reference include keeping a watching brief over share voting issues and practices in the US, Europe and, increasingly, Asia.

On a practical level, the Committee has, for example, engaged in discussions with the European Commission over its ongoing Corporate Governance Action Plan, contributed to the consultation exercises in 2004 and 2005 on shareholder voting rights in Europe (as described

above), written to the Commission regarding its proposed Directive on Shareholder Rights (also described above), and written to the New York Stock Exchange (NYSE) regarding the recent report produced by the latter's proxy working group.

In its letter to the NYSE, the Cross-Border Voting Practices Committee touched upon a number of principles that it sees as fundamental to the voting process. These could be summarised as follows:

1. Voting is an important responsibility for investors.
2. The voting rights of shareholders should be aligned with their economic interests.
3. Proxy voting systems should be simple and cost-effective.
4. Ensuring the accountability of the board to shareholders is fundamental and voting is the chief mechanism for achieving this goal.
5. Communication between issuers and beneficial owners is critical for sound corporate governance (and should be improved).

The Committee intends to expand its work in the coming years and to become more engaged in Asia.

### **ACGA's Proxy Voting Research and Survey**

In order to gain a better understanding of why impediments to efficient proxy voting exist in Asia, and how these systems could be improved, ACGA began researching the issue in 2005 and decided later that year to undertake a survey of the voting experiences of major institutional investors in the region. The survey was tested with a group of global institutional investors in April 2006 and formally sent out in May. Questionnaires were completed during May and June.

Our survey and research focussed on 10 key issues:

1. Notice of shareholder meetings
2. Time to vote before meetings
3. Information on which to vote
4. Availability of translated material
5. Confirmation that vote has been received
6. Voting by show of hands vs voting by ballot/poll
7. Clustering of meeting dates
8. Bundling of resolutions
9. Publication of detailed vote results
10. Independent audit of vote results

The survey covered firms listed on 11 Asian stock markets and, for benchmarking purposes, Australia, the UK and the US.

The Asian markets included:

China	Shanghai and Shenzhen Stock Exchanges (SSE, SZSE)
Hong Kong	Stock Exchange of Hong Kong (SEHK)
India	Bombay Stock Exchange (BSE), National Stock Exchange (NSE)
Indonesia	Jakarta Stock Exchange (JSX)
Japan	Tokyo Stock Exchange (TSE)
Korea	Korea Stock Exchange (KRX)
Malaysia	Bursa Malaysia (BM)
Philippines	Philippines Stock Exchange (PSE)
Singapore	Singapore Stock Exchange (SGX)
Taiwan	Taiwan Stock Exchange (TSEC)
Thailand	Stock Exchange of Thailand (SET)

The benchmark markets were:

Australia	Australian Stock Exchange (ASX)
UK	London Stock Exchange (LSE)
US	New York Stock Exchange (NYSE), NASDAQ

Respondents were asked to rate each market on each of the 10 issues, using the following scale:

- Best Global Practice (5 points)
- Good (4 points)
- Fair (3 points)
- Poor (2 points)
- Worst Global Practice (1 point)

Respondents were also given a table that provided definitions of what ACGA believed constituted “best global practice” and “worst global practice” for each of the 10 issues. This was intended as a point of reference for respondents. See below for the table.

## **Respondents**

The survey was sent to a select group of senior managers or investment officers at 48 institutional investors actively investing in the Asian public-equity markets, including 26 ACGA investor members and 22 non-members. (Note: Retail investors were not included.)

Most, though not all, were large or very large institutions, are domiciled overseas (typically in Europe or the US), and yet have had a presence in Asia for many years. A few do not have offices in the region, but are active investors in Asian equity nonetheless. The remainder of recipients were either private Asian institutions or boutique foreign funds.

The institutions were selected on the basis of either a known interest in corporate governance issues and/or a good chance that they were voting their shares.

A total of 22 responses were received. Reasons given for not responding included:

- The institution does not vote its shares. Indeed, some recipients only discovered this when asked to participate!
- The institution votes its shares in the US and Europe, but not yet in Asia.
- The institution votes in only some of the 11 Asian markets covered, hence did not feel qualified to comment on all. Some investors only vote in one market—Japan.
- The institution has only just started voting in Asia and does not yet have sufficient experience to comment.
- The voting of Asian shares is handled by colleagues outside the region (eg, in Melbourne or the US) and getting their cooperation is too difficult.
- In a couple of cases, key individuals had just left institutions and there was no one else to fill in the survey.

Clearly, the voting of shares in Asia is still at a nascent stage.

While the universe of active institutional voters may be small, the 22 respondents to the survey are a significant group in terms of size and expertise in corporate governance and voting. As a group they have:

- Combined assets under management (AUM) globally of more than US\$3 trillion;
- An average AUM per respondent of around US\$156 billion, with a range from a few hundred million dollars to US\$1 trillion. And;
- Between 6-21% of their assets invested in Asia (for most respondents). The Asian investors have 100% of their assets invested locally.

Furthermore, eight institutions have dedicated “corporate governance units” that, among other things, manage their voting process. These are mostly based outside Asia and have a staff size of anywhere between one to 14 persons (full-time equivalents).

As well as completing the survey, several of the respondents provided ACGA with useful additional information on their voting experiences and practices. Follow-up interviews were also carried with respondents.

<b>ACGA Asian Proxy Voting Survey 2006: Definitions</b>		
<b>Issue</b>	<b>Best Global Practice</b>	<b>Worst Global Practice</b>
1. Notice of meetings	28 calendar days or more.	14 calendar days or less.
2. Time to vote before meetings	At least 14 calendar days between issuance of full agenda and voting deadlines set by global custodians.	No time between issuance of full agenda and voting deadlines set by global custodians.
3. Information on which to vote	Full agenda with detailed explanation of each agenda item issued at least 28 calendar days before the meeting.	Preliminary agenda (which may or may not change) with few or no details. Full agenda only given at the meeting.
4. Availability of translated material	Full availability of material translated by the company.	No company translation of material.
5. Confirmation that vote has been received	Confirmation from share registrar that vote has been received. (Note: Confirmation from custodian bank does not count.)	No confirmation.
6. Voting by show of hands vs voting by ballot/poll	All resolutions voted by ballot/poll.	All resolutions voted by show of hands.
7. Clustering of meeting dates	Meeting dates spread over 2-3 months.	Meeting dates clustered on 2-3 days.
8. Bundling of resolutions	One resolution per item.	Bundling of items, such as director elections and article amendments, into one resolution.
9. Publication of vote results	Full announcement not more than 1 day after meeting of all vote results for each resolution.	Minimal announcement stating "all resolutions were approved".
10. Independent audit of vote results	Complete audit by an independent auditor.	No audit.

Source: Asian Corporate Governance Association

## CHAPTER 2

### Overall results

#### Key points:

- Hong Kong emerges as the clear leader in Asia, several percentage points ahead of Singapore. Yet Hong Kong still scores well below Australia, UK and US (all of which themselves show room for improvement).
- Japan and Taiwan are rated as having the weakest voting systems, with Korea not far behind.
- Due to the limited accessibility of China's A-share markets in Shanghai and Shenzhen, hence limited voting experiences among respondents, we chose not to include the China score in the main regional ranking but to put it below the other markets for reference purposes only (see table below). Since respondents assessed voting systems by stock market, not the country of origin of listed companies, the Hong Kong score includes PRC companies listed in Hong Kong.

#### By market

As noted in the Introduction, the scores were weighted by giving a mark of five for best global practice, four for good, three for fair, two for poor and one for worst global practice. In percentage terms, this translates to:

- All responses marked "best global practice": 100%
- Responses average "good": 80%
- Responses average "fair": 60%
- Responses average "poor": 40%
- All responses marked "worst global practice": 20%

The aggregate scores, rankings and qualitative assessments for all markets were as follows:

Market rankings and scores		
	Score (%)	Qualitative assessment
1. Hong Kong (SEHK)	67	Fair
2. Singapore (SGX)	61	Fair
3. Malaysia (BM)	58	Poor to Fair
4. India (BSE/NSE)	57	Poor to Fair
5. Philippines (PSE)	56	Poor to Fair
6. Thailand (SET)	54	Poor to Fair
7. Indonesia (JSX)	53	Poor to Fair
8. Korea (KRX)	51	Poor to Fair
9. Taiwan (TSEC)	50	Poor
10. Japan (TSE)	47	Poor
China (SSE/SZSE)	47	Poor
Benchmark markets		
1. US (NYSE/NASDAQ)	79	Fair to Good
2. UK (LSE)	77	Fair to Good
3. Australia (ASX)	76	Fair to Good

Source: Asian Corporate Governance Association

## Qualitative responses

Hong Kong's position at the top of the rankings in Asia was due in part to the fact that it received more "best global practice" scores than other markets. Overall, 16% of Hong Kong's scores were best global practice, compared to 9% for Singapore, 8% for Malaysia, 6% for India and Taiwan, 5% for the Philippines, 4% for Japan, and 3% for Indonesia, Thailand and Korea. (Only 1% of China's scores were best global practice.)

In the view of some respondents, Hong Kong stood out particularly in areas such as notice of shareholder meetings, time to vote before meetings, information on which to vote, non-clustering of meeting dates, publication of vote results, and independent audit of vote results. It received a higher number of "best global practice" scores here than other markets.

In the view of most respondents, however, Hong Kong rated either "good" or "fair" on most of the above points. And while it received few "worst global practice" scores, other respondents rated Hong Kong as such (along with almost all other markets) on vote confirmation, publication of vote results and independent audit of vote results.

At the other end of the table, a massive 30% of Japan's scores were "worst global practice", compared to 26% for Taiwan, 24% for Korea, 16% for Singapore, 12% for Indonesia and India, 11% for Thailand, 10% for Malaysia and the Philippines, and just 7% for Hong Kong. (China's figure here was 19%.)

Japan did especially badly in areas such as notice of shareholder meetings, time to vote before meetings, and clustering of meeting dates. Indeed, it received the most number of "worst global practice" scores of any market on any question for clustering of meeting dates, a result that will not surprise any investor who has tried to vote at Japanese annual general meetings. (This issue is covered in more detail in Chapter 3.7)

Respondents also marked Japan down on publication of vote results and independent audit of vote results—although to be fair they also scored other markets harshly in these two areas.

In contrast, some respondents felt that Japanese companies deserved to be rated as "good" or "fair" for notice of shareholder meetings and time to vote before meetings. While others scored Japan highly on voting by poll rather than show of hands, and reasonably well on information to vote.

What these results indicate is that respondents, as one would expect, have different experiences of the same market. Or they weight issues differently in terms of importance in the voting process. Nevertheless, there was sufficient agreement among respondents for a pattern to emerge among markets.

## Market rankings by question

Hong Kong's position at the top of the table in Asia was also due to the fact that it ranked first in nine out of the ten questions and second on the remaining question—as the table on the next page shows.

Singapore (2nd) came second seven times, fourth twice and eighth once. Malaysia (3rd) came equal-second once, third four times, fourth twice and fifth three times.

There was similar consistency at the bottom of the table, where Korea (8th), Taiwan (9th) and Japan (10th) tended to come towards the bottom on most questions. The questions that proved to be exceptions included:

- **Japan:** Information to vote (=6th); voting by poll (1st); publication of results (5th); and independent audit (6th).
- **Taiwan:** Vote confirmation (=6th); non-bundling of resolutions (=5th); and independent audit (5th).
- **Korea:** Vote confirmation (=6th); voting by poll (=5th); and independent audit (=3rd).

In the middle of the table, the results were mixed. India (4th) came third on four questions, fourth on one, fifth on one, sixth on two, but then ninth and tenth on the last two.

The ranking for the Philippines (5th) ranged from second on one question, third on another, fourth on three questions, sixth on two, seventh on one, eighth on one, and finally tenth on the remaining question.

Thailand (6th) also ran the gamut from third, fourth, fifth, sixth, ninth and tenth.

Indonesia (7th), however, showed a strong consistency—it came second once, fifth once, sixth once, seventh five times, and eighth twice.

	Notice of meeting	Time to vote	Information to vote	Translated material	Vote confirmed	Voting by poll	Meeting dates clustered/not clustered	Bundling	Publication of results	Independent audit
1. Hong Kong	1st	1st	1st	1st	1st	2nd	1st	1st	1st	1st
2. Singapore	2nd	2nd	2nd	2nd	4th	4th	8th	2nd	2nd	2nd
3. Malaysia	4th	3rd	3rd	=4th	=2nd	=5th	5th	=5th	=3rd	=3rd
4. India	5th	6th	4th	3rd	=6th	3rd	3rd	3rd	9th	10th
5. Philippines	6th	=4th	=6th	=4th	=2nd	10th	4th	8th	=3rd	=7th
6. Thailand	3rd	=4th	5th	6th	10th	9th	6th	4th	10th	9th
7. Indonesia	7th	7th	8th	8th	5th	=7th	2nd	7th	6th	=7th
8. Korea	8th	=8th	9th	=9th	=6th	=5th	7th	9th	=7th	=3rd
9. Taiwan	9th	=8th	10th	=9th	=6th	=7th	9th	=5th	=7th	5th
10. Japan	10th	10th	=6th	7th	9th	1st	10th	10th	5th	6th
How did China score?	Slightly better than Taiwan	Slightly better than India	Slightly better than Korea	Below Korea and Taiwan	Well below Thailand	Well below Philippines	Slightly below Malaysia	Well below Japan	Slightly above India	Well below India

Source: Asian Corporate Governance Association

## Comparisons with “CG Watch”

In comparing the results of this proxy voting survey with “CG Watch”, an annual survey of corporate governance in Asia jointly published by CLSA Asia-Pacific Markets and ACGA, some interesting changes occur. Singapore and Hong Kong switch places in first and second. India and Malaysia switch in third and fourth. The Philippines and Indonesia both climb in the rankings—to fifth and seventh in this survey compared to eighth and tenth, respectively, in “CG Watch”. And Korea and Taiwan, which are mid-ranking countries in our broader survey, do much worse in terms of proxy voting. Only Thailand stays where it is. (Note: Japan is not yet included in “CG Watch”.)

Here is how the two surveys compare:

<b>“CG Watch 2005” vs “ACGA Proxy Survey 2006”</b>			
<b>CG Watch rank</b>	<b>Score (%)</b>	<b>ACGA Proxy rank</b>	<b>Score (%)</b>
<b>1. Singapore</b>	70	<b>1. Hong Kong</b>	67
<b>2. Hong Kong</b>	69	<b>2. Singapore</b>	61
<b>3. India</b>	61	<b>3. Malaysia</b>	58
<b>4. Malaysia</b>	56	<b>4. India</b>	57
<b>5. Taiwan</b>	52	<b>5. Philippines</b>	56
<b>=6. Korea</b>	50	<b>6. Thailand</b>	54
<b>=6. Thailand</b>	50	<b>7. Indonesia</b>	53
<b>8. Philippines</b>	46	<b>8. Korea</b>	51
<b>9. China</b>	44	<b>9. Taiwan</b>	50
<b>10. Indonesia</b>	37	<b>10. Japan</b>	47
<b>Japan</b>	Not included	<b>China</b>	47

Note: “CG Watch 2005” was published in October 2005.

Sources: Asian Corporate Governance Association; CLSA Asia-Pacific Markets

What accounts for these changes? “CG Watch” is a general survey, covering five broad categories of corporate governance: rules and regulations; enforcement; political and regulatory institutions; international accounting and auditing standards; and “corporate governance culture”. It would be somewhat surprising if the market ranking for a discrete part of corporate governance—namely, proxy voting systems—was identical to the whole. This is good news for those markets that come out looking better on our proxy survey, but clearly not for those doing worse!

The switch in places between Hong Kong and Singapore is accounted for in part by the fact that Hong Kong companies are much more likely than their Singapore counterparts to voluntarily vote by poll, engage independent auditors to count the vote, and publish full results the following day. Hong Kong companies (and the Hong Kong stock exchange) are also better at using the Internet to distribute electronic copies of meeting notices and circulars, as well as voting results. And shareholders in Hong Kong receive earlier notice of annual general meetings (21 days) than those in Singapore (14 days), although it is increasingly common for

leading companies in both markets to give their investors more warning than this. (See Chapter 3 for more analysis of individual issues.)

Malaysia marginally outranks India in our proxy survey because it scored better on six out of the ten questions, namely: notice of meetings; time to vote; information to vote; vote confirmation; publication of vote results; and independent audit of results. The percentage-point difference in scores on each of these questions ranged from marginal or small for most of them to significant on one.

The rise of the Philippines and Indonesia is somewhat harder to explain. The simple answer is that the institutional investors participating in this survey find them easier markets in which to vote than, say, Korea, Taiwan and Japan (all of which are known to be difficult in their own way). A more subtle answer would be that the universe of investable companies in the Philippines and Indonesia is significantly smaller than other Asian markets. If foreign institutions invest in any companies, they are likely to invest in just the better managed ones—and the better companies will tend to be more sophisticated in dealing with their overseas shareholders. In contrast, since Korea, Taiwan and Japan are much bigger markets and the universe of potential investments much greater, companies held by foreign investors are likely to exhibit a wider range of management and corporate governance quality.

As the table below shows, the average number of stocks held by respondents varied enormously between markets, with the Philippines and Indonesia coming in right at the bottom.

In telephone interviews with survey respondents, the general consensus was that the smaller the number of companies invested in, the less a market score would accurately reflect the market as a whole (since the companies held were likely to have better voting practices than the average). Conversely, the larger the number of companies invested in, the more likely one would have bad voting experiences with poorer quality companies.

Intuitively, this makes sense and may help to explain why Japan's score is low. Indeed, respondents who gave high scores for Japan tended to be invested in a much smaller number of companies than the overall average.

But it can only be a small part of the explanation, since it fails to take account of the following: If a key determinant of a low score is simply the number of companies invested in, why isn't the score for Hong Kong much lower? And indeed for the benchmark markets as well?

<b>Across the universe</b>	
<b>Markets by rank</b>	<b>Average # stocks held by respondents</b>
<b>1. Hong Kong</b>	85
<b>2. Singapore</b>	44
<b>3. Malaysia</b>	34
<b>4. India</b>	41
<b>5. Philippines</b>	10
<b>6. Thailand</b>	30
<b>7. Indonesia</b>	13
<b>8. Korea</b>	55
<b>9. Taiwan</b>	57
<b>10. Japan</b>	350
<b>China</b>	16
<b>Benchmark markets</b>	
<b>1. United States</b>	1,826
<b>2. United Kingdom</b>	367
<b>3. Australia</b>	88

## A charge of bias?

One question that may be asked of our survey is whether it favours English-speaking markets, such as Hong Kong and Singapore at the expense of non-English speaking markets such as Taiwan and Japan? Two questions—the availability of translated material and the clustering of meeting dates—would seem to tilt the scales against Japan in particular. We therefore decided to see how the markets ranked if we removed one or other, or both, of these questions. The results were as follows:

<b>Rankings without Q4: Availability of translated material</b>	
	<b>Score (%)</b>
<b>1. Hong Kong</b>	58
<b>2. Singapore</b>	52
<b>3. Malaysia</b>	51
<b>4. Philippines</b>	49
<b>5. India</b>	49
<b>6. Indonesia</b>	48
<b>7. Thailand</b>	47
<b>8. Korea</b>	46
<b>9. Taiwan</b>	46
<b>10. Japan</b>	43
<b>China</b>	48

Note: Numbers rounded.

Source: Asian Corporate Governance Association

<b>Rankings without Q7: Clustering of meeting dates</b>	
	<b>Score (%)</b>
<b>1. Hong Kong</b>	66
<b>2. Singapore</b>	60
<b>3. Malaysia</b>	57
<b>4. India</b>	55
<b>5. Philippines</b>	54
<b>6. Thailand</b>	53
<b>7. Indonesia</b>	51
<b>=8. Korea</b>	49
<b>=8. Taiwan</b>	49
<b>=8. Japan</b>	49
<b>China</b>	45

Note: Numbers rounded.

Source: Asian Corporate Governance Association

Removing Q4 brought down the scores of all markets (except for China), narrowed the gap between some markets, and resulted in position changes in the middle of the table—the Philippines nudged out India for fourth place and Indonesia did the same to Thailand for sixth place. But it made no difference to the rankings at either the top or the bottom of the table.

It is worth pointing out that Japan was by no means the lowest scorer on Q4. As the table on page 4 shows, it came seventh on this question. (See Chapter 3.4 for more analysis.)

Removing Q7 made little difference to the scores at the top, middle or bottom of the table, though it did push up Japan's score somewhat. Nor did it change the basic ranking of markets, except that Korea, Taiwan and Japan all came equal eighth (ie, last).

If both questions are removed, the scores for most countries come down slightly and the gap narrows, as expected. The Philippines again just nudges India out of fourth position, and Korea, Taiwan and Japan go back to their original position at the bottom of the table. (See the next table.)

In sum, the problems of the lower ranked markets are deep-seated and not simply dictated by the lack of availability of translated material or the clustering of meeting dates.

<b>Rankings without Q4 &amp; Q7:</b>	
	<b>Score (%)</b>
<b>1. Hong Kong</b>	64
<b>2. Singapore</b>	58
<b>3. Malaysia</b>	55
<b>4. Philippines</b>	52
<b>5. India</b>	52
<b>6. Thailand</b>	52
<b>7. Indonesia</b>	51
<b>8. Korea</b>	50
<b>9. Taiwan</b>	49
<b>10. Japan</b>	49
<b>China</b>	45

Note: Numbers rounded.

Source: Asian Corporate Governance Association

### **By question**

The survey can also be analysed in terms of which issues were of most concern to respondents across the region and which ones scored relatively well.

The five questions that received the highest number of “poor” and “worst global practice” responses were (in order of seriousness):

1. Independent audit of vote results (Q10)
2. Publication of vote results (Q9)
3. Information on which to vote (Q3)
4. Confirmation that vote has been received (Q5)
5. Voting by show of hands vs voting by ballot/poll (Q6)

In contrast, the five questions that received the highest number of “good” and “best global practice” responses were (in order of merit):

1. Clustering/non-clustering of meeting dates (Q7)
2. Availability of translated material (Q4)
3. Bundling of resolutions (Q8)
4. Time to vote (Q2)
5. Notice of shareholder meetings (Q1)

A significant difference between the two lists, however, is that respondents felt much stronger negative feelings about the five issues of concern than they felt positive feelings about the five areas where standards were higher. Or, in terms of the data, the five issues of concern all received a much higher number of poor/worst scores than the five better areas received good/best scores. Indeed, only the first of the better areas—clustering of meeting dates—actually received more good/best scores than “fair” scores. The other four either received about the

same or less, indicating that while some respondents felt positively about these areas, most did not.

### **Benchmark markets**

The relatively high percentage scores for our benchmark markets of the US, UK and Australia reflected the fact that a majority of responses for each were either “best global practice” or “good”. In the case of the US, 56% of responses were best global practice, 24% good and 20% fair. For the UK, these figures were 45%, 37% and 18%, respectively. For Australia: 45%, 37%, and 17%, respectively. Australia also received one “poor” score.

The areas where these markets stood out included notice of meetings, time to vote before meetings, information on which to vote, voting by poll, non-clustering of meeting dates, non-bundling of resolutions, and independent audit of vote results.

The issues about which respondents had some concern included the lack of confirmation that votes have been received and the publication of vote results.

While the aggregate scores for the US (79%), UK (77%) and Australia (76%) were clearly well above those for Asian markets, two comments are worth making. First, none of the benchmark markets averaged more than 80%, which was the minimum threshold required for categorisation as “good” (although the US came very close). Second, the relatively high percentage of “fair” responses that each received indicates that even the most sophisticated voting systems in the world have room for improvement.



### 3.1: Notice of shareholder meetings

<b>Best Global Practice</b>	28-30 calendar days (or more) before a meeting.
<b>Worst Global Practice</b>	14 calendar days (or less) before a meeting.

Source: Asian Corporate Governance Association

#### Key issue:

- Most Asian markets have outdated rules governing the release of detailed notices for annual general meetings. None meet global best practice on this score.

#### ACGA recommendation:

1. Final and detailed notices/agendas should be published at least 28 calendar days before general meetings.

Most listed companies in Asia are required to give only 14 calendar days notice of a general shareholder meeting—a time limit we define as “worst global practice”—although one market mandates 21 days (Hong Kong), another 20 days (China), and a third only 7 days (Thailand).

These rules reflect an era when a company’s shareholders were largely local and would only have to travel relatively short distances to meetings. Fourteen days notice to travel from part of a city or country to another was no doubt adequate, assuming meeting documents arrived sufficiently early. But in today’s securities market, a notice period of 14 or even 21 days leaves most outside institutional investors too little time to vote. This is not because such investors want to attend the meetings in person—although the number that do is growing—it is because they have to meet tight deadlines set by their global custodian (an issue dealt with in detail in Chapter 3.2).

Although this issue was not seen by survey respondents as one of the most serious impediments to proxy voting in Asia, they nevertheless scored markets quite low, as the table indicates.

<b>Q1. Notice of shareholder meetings</b>		
	<b>Score (%)</b>	<b>Assessment</b>
<b>1. Hong Kong (SEHK)</b>	69	Fair
<b>2. Singapore (SGX)</b>	63	Fair
<b>3. Thailand (SET)</b>	59	Poor to Fair
<b>4. Malaysia (BM)</b>	55	Poor to Fair
<b>5. India (BSE/NSE)</b>	55	Poor to Fair
<b>6. Philippines (PSE)</b>	54	Poor to Fair
<b>7. Indonesia (JSX)</b>	53	Poor to Fair
<b>8. Korea (KRX)</b>	51	Poor to Fair
<b>9. Taiwan (TSEC)</b>	50	Poor
<b>10. Japan (TSE)</b>	46	Poor
<b>China (SSE/SZSE)</b>		
	51	Poor to Fair
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	91	Good to Best
<b>2. UK (LSE)</b>	88	Good
<b>3. Australia (ASX)</b>	87	Good

Source: Asian Corporate Governance Association

Interestingly, while most markets scored about the same as their aggregate average rating (see Chapter 2), two countries performed better—Thailand and China. In the case of Thailand, and despite its rule of 7 days, the explanation is likely to be that the companies in which respondents invest make a point of getting their meeting notices out earlier. Indeed, some of the better companies in Thailand do just this (see the “Beyond the rules” section below). One respondent said he gave Thailand the same score as Hong Kong for this question because his perception was that he was not rushed to vote in this market. He noted that his fund used the services of Institutional Shareholder Services (ISS), a proxy voting adviser based in the US and operating in Asia, and generally felt that they received enough notice. As for China, its higher score was probably due to the 20-day deadline it sets for companies.

It is also worth noting the significantly higher scores that the US, UK and Australia achieve on this question—around 10 percentage points better for each. This is because the rule for listed companies in the US is 30 days, in Australia it is 28 days, and in the UK 21 days. The UK actually goes further in its “Combined Code on Corporate Governance” (July 2003) and encourages listed companies to send AGM notices and related papers “at least 20 working days before the meeting” (which equates to 28 calendar days).

### Range of responses

In terms of the range of responses to this question in the survey, they varied from “worst global practice” for most Asian markets and “poor” for a few, to “good” for most and “best global practice” for some.

<b>Highs and lows</b>		
<b>Range of responses on meeting notices</b>		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Hong Kong (SEHK)</b>	Poor	Best
<b>2. Singapore (SGX)</b>	Worst	Best
<b>3. Thailand (SET)</b>	Poor	Good
<b>4. Malaysia (BM)</b>	Worst	Best
<b>5. India (BSE/NSE)</b>	Worst	Good
<b>6. Philippines (PSE)</b>	Worst	Good
<b>7. Indonesia (JSX)</b>	Poor	Good
<b>8. Korea (KRX)</b>	Worst	Good
<b>9. Taiwan (TSEC)</b>	Worst	Best
<b>10. Japan (TSE)</b>	Worst	Good
<b>China (SSE/SZSE)</b>	Worst	Good
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	Fair	Best
<b>2. UK (LSE)</b>	Fair	Best
<b>3. Australia (ASX)</b>	Fair	Best

Source: Asian Corporate Governance Association

It would appear that the qualitative experiences of respondents—or their expectations—differed considerably. However, some observations are in order:

- One factor that may account for the positive responses on low-ranking markets is that companies in some of these places are required to publish initial meeting notices much earlier than detailed agendas. In Indonesia, for example, issuers must publish an initial announcement 28 days before a meeting (usually in a local newspaper), but only need to release the formal invitation and detailed agenda 14 days before. In Taiwan, the rule is 30 days for the preliminary notice—although many companies send these out much earlier—and 10 days for the detailed and final agenda. Such initial notices contain only the bare facts about the meeting and its agenda; they are not a substitute for the full agenda. Yet they may give the impression that things are better than they are.
- Although Taiwan’s scores ranged from worst to best, the most common response for Taiwan (and indeed Japan) was “worst global practice”. Korea also received a large number of worst scores, while the most frequent response for Indonesia was “poor”.
- “Fair” was the most common response for several markets, including China, Hong Kong, Malaysia and Thailand.
- Singapore’s most frequent rating was “good”, but it lost out to Hong Kong because the latter received a larger number of “best global practice” scores and no “worst” scores (whereas Singapore did).

### **Did you know?**

China is the only country in Asia that applies special rules to its companies listing on “overseas” stock exchanges, such as Hong Kong, New York, London and Singapore. The rules are contained in the “Special Regulations”, passed by the State Council in August 1994, and the “Mandatory Provisions for Companies Listing Overseas”, issued by the Securities Committee and the State Restructuring Commission later in the same month. PRC companies listing overseas have to incorporate the Mandatory Provisions into their Articles of Association so as to strengthen investor protection mechanisms.

One of these rules is that such companies must give their shareholders substantially more notice of general meetings—45 days—than is required under either the company law of China (20 days), Hong Kong (21 days) or Singapore (14 days). These notices must not only include the date and location of the meeting, but specify the issues to be discussed. And the rule applies to extraordinary as well as annual general meetings. Judging by examples of such announcements published by PRC firms listed in Hong Kong, they are generally as detailed as meeting notices released later by local listed firms. (Note: These rules do not apply to PRC companies incorporated in Hong Kong, known as “red chips”.)

## Beyond the rules

As noted in the case of Thailand, several leading companies around Asia make an effort to send out their AGM notices much earlier than required. The following table provides a selection:

<b>Quicker on the draw</b>	
<b>Publication of detailed AGM notices in 2005/6</b>	
<b>Hong Kong (Rule = 21 days)</b>	<b># days</b>
Sun Hung Kai Properties	59
HSBC	53
Bank of East Asia	31
Li & Fung	29
<b>Singapore (Rule = 14 days)*</b>	
SembCorp Industries	37
Keppel Corporation	32
SingTel	31
Singapore Press Holdings	31
<b>Thailand (Rule = 7 days)</b>	
PTTEP	35
Siam Cement	29
Kasikorn Bank	22

\*14 days for ordinary business and 21 days for special business.  
Many meetings in Singapore include special business, hence 21 days would be the required deadline.

Source: Asian Corporate Governance Association

## Solutions

When asked how many days notice of meetings would be sufficient, most respondents answered 21, 28 or 30 calendar days.

Our recommendation is that final and detailed notices/agendas should be published at least 28 calendar days prior to a meeting (or 20 "working" days).

This is in line with the standard in the proposed EU Directive on Shareholder Rights, which sets a minimum of 30 calendar days, and with the UK Combined Code on Corporate Governance, which encourages companies to meet the 20 working-day standard. It is also in line with the 30-day norm in the US.

### The ISS view

Institutional Shareholder Services (ISS), a US firm, is the world's largest proxy voting advisor to institutional investors. Based in Rockville, Maryland, it advises more than 1,600 institutions on how to vote their shares in 35,000 companies and 115 markets worldwide. It operates in Asia from offices in Tokyo and Manila, and recently bought a proxy voting advisory service in Australia. In addition to analyzing company meeting agendas and making voting recommendations to its institutional clients, who may be voting shares in hundreds if not thousands of portfolio companies each AGM season, ISS provides its clients with an Internet-based platform through which they can vote these shares.

Since ISS sits in-between its investor clients and the flow of meetings notices, circulars and annual reports published by issuers—and which come to it through a network of global custodians and sub-custodians—it is in a good position to have a broad view of the strengths and weaknesses of each market.

ISS completed our survey and, perhaps not surprisingly, took a tougher view on most Asian markets than many of our respondents. Its views were, in fact, in line with the more critical half of our respondents. Here is how it rated the 11 Asian and three benchmark markets on notice of shareholder meetings:

- “Best global practice”: Australia, UK, US
- “Poor”: Hong Kong, India, Indonesia, Thailand
- “Worst global practice”: China, Japan, Korea, Malaysia, Philippines, Singapore, Taiwan

Markets arranged in alphabetical order under each category.

### 3.2: Time to vote before meetings

<b>Best Global Practice</b>	At least 14 calendar days between issuance of full agenda and voting deadlines set by global custodians.
<b>Worst Global Practice</b>	No time between issuance of full agenda and voting deadlines set by global custodians.

Source: Asian Corporate Governance Association

#### Key issues:

- Late publication of full agendas, combined with tight voting deadlines set by custodians, allow cross-border investors little time in which to vote.
- Continuing reliance by sub-custodian banks on manual processing of voting instructions adds considerable time to the vote process—and forces the setting of early deadlines by both themselves and global custodians.

#### ACGA recommendations:

1. There should be at least 14 calendar days between the issuance of full agendas and the average voting deadlines set by global custodians.
2. Governments and stock exchanges should give serious consideration to the establishment of national electronic voting systems.

If investors were able to attend every annual general meeting of every company in which they invested, the issue of having insufficient time to vote would be irrelevant. They would simply vote in the meeting. But for cross-border investors who are unable to attend meetings, yet wish to vote by proxy, the global voting system does not make life easy.

At its absolute best, the system in Asia allows institutions several weeks in which to cast their votes—but this only applies in the relatively small number of cases where companies release their detailed agendas extremely early (such as those listed in the table at the end of Chapter 3.1). A truer description would be to say that many institutional investors enjoy on average only 5-7 days in which to vote, while it is quite common for this to be squeezed down to just 2-3 days in some markets. In some cases, investors are left with no time to vote.

How is this possible? It is possible because of the way in which the global voting system works. On one end you have issuers that release their detailed meeting agendas as late as legally possible, say 10-14 days before a meeting. At the other end you have institutional investors who must cast their vote according to deadlines set by their

<b>Early closing</b>	
Voting deadlines set by custodian banks in Asia, 2006	
	# days
<b>Hong Kong</b>	11-13
<b>India</b>	10
<b>Indonesia</b>	7
<b>Japan</b>	8-15
<b>Korea</b>	12
<b>Malaysia</b>	8
<b>Philippines</b>	7
<b>Singapore</b>	10
<b>Taiwan</b>	10-14
<b>Thailand</b>	8

Source: Institutional Shareholder Services

global custodian bank, not by local law. These deadlines are typically around 10 days before a meeting, with some a more reasonable 7-8 days before and others a surprising 11-15 days before. It varies by custodian, but also by market (see table on previous page).

Hence, if a listed company in Taiwan published its detailed agenda just 10 days before a meeting, as permitted to by law, this would leave no time for the agenda to be translated and sent to overseas institutional investors. Global custodian deadlines in Taiwan are set at least 10 days before meetings; some are as much as 14 days, as the table shows. Even if a custodian bank allowed some flexibility regarding these deadlines—as indeed some do—this would still leave virtually no time to vote.

No one part of the voting chain is wholly responsible for this situation. It is rather the result of a combination of factors, including the late publication by listed companies of AGM notices and agendas (as described in the previous section), the early deadlines set by global custodian banks, and even earlier deadlines set by sub-custodian banks at the local level (deadlines that the global custodians must meet). Sub-custodians are often the registered shareholder for foreign investors, hence vote on their behalf. That is to say, it is the sub-custodian's name on the shareholder register of a company (eg, XYZ Nominees Ltd), not the foreign investor's name. Sub-custodians need to set early deadlines largely because of the manual vote-processing systems that they use, as the following examples illustrate.

### **The system in Japan**

In Japan, most listed companies hold their annual meetings in June, with the vast majority convened on just two days at the end of the month. In 2005, a total of 370 meetings were held on June 28 and 1,420 on June 29.

The voting timeline for one sub-custodian bank in Japan is shown in the diagram on the following page (which we have reproduced as a picture because it gives a better flavour of the system). The timeline refers to meetings held on June 29, 2005 (although the process this year would have been similar.)

#### Start: June 14 (Fourteen days before)

What the diagram shows—reading from left to right, and top to bottom—is that the process started when the “TA” or transfer agent (ie, the share registrar working for a listed company) mailed out most of the notices and detailed agendas 14 clear days before annual general meetings are held (“clear” because the day on which the notice is sent is not included).

In order to save time, the sub-custodian bank sent staff to collect the meeting notices from the transfer agents on the same day as they were issued. The notices were immediately sent to be translated by an outside agent. (This process can take a few days and normally only the basic meeting agenda is translated, not all accompanying details. Some companies do provide a full English translation of their agendas—a subject dealt with in Chapter 3.3)

#### June 21 (Eight days before)

Because the sub-custodian had to process a large number of voting instructions in June 2005—

2005 schedule for peak AGM date June 29

	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	Remark
	(Mon)	(Tue)	(Wed)	(Thu)	(Fri)	(Sat)	(Sun)	(Mon)	(Tue)	(Wed)	(Thu)	(Fri)	(Sat)	(Sun)	(Mon)	(Tue)	(Wed)	
TA to mail notice	⊙																	TA (mail out on 14th (two weeks before AGM) most of the notices.
Receive Notice from TA	⊙																	To save mail time, send staff on errand to receive directly from TA.
Send for translation	⊙																	A few days lead time for translation by agent.
Deadline																		
Receive instruction from global distribution																		By Swift. By proxy. Print out. 2005: 30,000. (for all AGM - June), Talcott & Long time.
Process instruction																		Process instruction into PC. Holidays on 18, 19 and 25 were spent on this.
Make voting cards (by hand)																		Employ additional part time staff (30). Due to split voting, partial processing is not possible. Voting cards are sent out in the evening. Some TA come to our office to receive them. all in 1 day.
Send to TA																		TA demand they receive voting cards two days before AGM at latest.
AGM																		1.420 AGM held on this same date.

we to proceed 20K  
 3-4K per day  
 4-5 days  
 some of the

STOLE

up to 30,000 for the whole month, with around 20,000 in one four- to five-day period—it set a nominal deadline of June 21 for receiving voting instructions from global custodians. That was a staggering 8 days before the meeting date, although some flexibility was allowed, as the diagram indicates.

June 16-23 (Six to thirteen days before)

Global custodians sent in voting instructions received from institutional investors. These were sent through Swift, a bank communication system, not by the Internet, which custodians deem less secure.

June 16-25 (Four to thirteen days before)

The sub-custodian began processing instructions as soon as it got them. These instructions were received via multiple channels and compiling them was time consuming. Each instruction had to be printed out on paper before it was manually inputted into a computer, because the Swift system cannot connect directly into the sub-custodian's computer system. The huge amount of work required staff to work over the two weekends, including holidays, in the lead up to the peak AGM day on June 29.

June 26 (Three days before)

Having received all voting instructions, the sub-custodian had to fill out all the proxy voting cards—by hand—on one day. This necessitated hiring an additional 30 part-time staff.

The cards were posted the same evening to the transfer agents, some of which sent staff to the sub-custodian's office to collect the cards in order to speed up the process.

June 27 (Two days before)

The deadline set by transfer agents for receipt of all voting cards.

Although the company law in Japan sets only a one-day deadline for the receipt of proxy votes, transfer agents typically demand them at least two days before the AGM, or even earlier, because they want to be able to inform their clients (the listed companies) how the proxy vote is going. With investors showing an increasing willingness to vote against resolutions in recent years, companies have become more sensitive about the proxy vote.

End: June 29

The date on which 1,420 annual meetings were held.

This timeline highlights clearly how the manual nature of the vote-processing work carried out by sub-custodians greatly slows down the whole system in Japan. It forces the sub-custodians to set extremely early deadlines for global custodians, which in turn set even earlier deadlines for institutional investors, who then have an extremely short window of time in which to vote. Add to this the fact that meeting agendas for many listed companies have to be translated by third parties, and transfer agents demand proxy cards earlier than they should, and the window narrows further. Of the 14 days notice period, investors have at best just two to three days in which to vote. Yet if issuers released their meeting notices, say, 21 days before a meeting, investors would have 9-10 days to vote—in other words, a doubling or tripling of the amount of time.

## The system in Taiwan

Sub-custodians in Taiwan face similar problems in having to operate manual systems at the local level. Like their counterparts in Japan, they commonly receive voting instructions from global custodians through Swift and have to print out each instruction before filling in the proxy cards by hand. And as in Japan, a large number of AGMs are concentrated in June. On June 6, 2005, for example, a total of 66 annual meetings were held.

There are some key differences in Taiwan, however. First, foreign shareholders holding more than 300,000 shares of a company must attend its AGM and vote. If they cannot attend in person, they can send an agent (ie, a representative of their sub-custodian bank). If the meeting is being held in Taipei, sub-custodians will need to receive voting instructions from global custodians at least three days before the meeting, according to a large sub-custodian bank we interviewed. If the meeting is held outside Taipei, however, the deadline will rise to five days—so as to allow for traveling time. (Note: In the past, if no voting instructions were received from such foreign shareholders, the sub-custodian banks were required to vote in favour of all resolutions. Now they are required to abstain.)

A second difference is that the proxy cards or “voting ballots” are only printed at the meeting. On arrival, the sub-custodian representative collects the printouts, each of which is separately designated by the name and ID number of an investor account, and proceeds to fill them in by hand. This not only creates room for human error, but is time consuming for all involved. “Meetings can go for a whole day!” said a representative of a sub-custodian bank. “Once we had to call our vice president by mobile phone (he was in an AGM) and tell him how to vote on behalf of different clients!” This same sub-custodian said that during each AGM season in Taiwan, they would typically vote on behalf of more than 1,000 investor accounts.

## ACGA survey responses

Respondents marked this question similarly to Q1 on notice of shareholder meetings—which is not surprising, as the two issues are closely linked. The main difference was that scores here were slightly improved for all markets, except Korea (whose score stayed the same) and Japan (whose score fell). Taiwan’s score rose by just one percentage point.

Hong Kong and Singapore, whose scores both improved a few percentage points compared to Q1, probably benefitted from the greater efficiency of the electronic communication channels they have put in place through their stock exchanges (ie, to distribute meeting notices and circulars) and from the efforts of leading companies to release meeting notices much earlier than rules require.

Q2. Time to vote before meetings		
	Score (%)	Assessment
1. Hong Kong (SEHK)	74	Fair to Good
2. Singapore (SGX)	66	Fair
3. Malaysia (BM)	61	Fair
=4. Philippines (PSE)	60	Fair
=4. Thailand (SET)	60	Fair
6. India (BSE/NSE)	57	Poor to Fair
7. Indonesia (JSX)	56	Poor to Fair
=8. Korea (KRX)	51	Poor to Fair
=8. Taiwan (TSEC)	51	Poor to Fair
10. Japan (TSE)	42	Poor
<b>China (SSE/SZSE)</b>		
	58	Poor to Fair
<b>Benchmark markets</b>		
1. US (NYSE/NASDAQ)	93	Good to Best
2. Australia (ASX)	89	Good
3. UK (LSE)	88	Good

Source: Asian Corporate Governance Association

## Range of responses

Across the 11 Asian markets, “fair” was the most common response (39% of responses), followed by “good” (26%), “poor” (21%), “worst global practice” (11%) and “best global practice” (4%). The range by market was as per the table:

Once again, the range of experiences of respondents varied considerably, even for the higher ranked markets. Singapore, notably, collected a couple of “worst” scores, while Malaysia, the Philippines and Thailand all received several “poor” scores.

The three bottom markets—Korea, Taiwan and Japan—were again brought down by a relatively high number of “worst” scores, despite the fact that all received several “fair”, at least one “good” and Taiwan even enjoyed one “best”. Overall, however, these three markets received 80% of the “worst” scores given on this question. Key factors for these low scores include the problem of late notice of shareholder meetings (as discussed in Question 1), delays in issuing full agendas (especially in Taiwan), and changes made to agendas right up until the meeting (Korea and Taiwan).

## Solutions

Respondents were also asked how much time they would consider sufficient in order to vote. Some said 10 days, although the most common response was 14 days, which is in line with our definition of best global practice.

Our recommendation is that there should be at least 14 calendar days between the issuance of full agendas and the average voting deadlines set by global custodians. Achieving this in most proxy voting systems in Asia today would require the publication of agendas at least 28 days before the annual meeting—as recommended in the previous section.

Another way to generate a much bigger voting window is to introduce a national system for electronic voting ...

<b>Highs and lows</b>		
Range of responses on time to vote before meetings		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Hong Kong (SEHK)</b>	Fair	Best
<b>2. Singapore (SGX)</b>	Worst	Best
<b>3. Malaysia (BM)</b>	Poor	Best
<b>=4. Philippines (PSE)</b>	Poor	Good
<b>=4. Thailand (SET)</b>	Poor	Good
<b>6. India (BSE/NSE)</b>	Worst	Good
<b>7. Indonesia (JSX)</b>	Poor	Good
<b>=8. Korea (KRX)</b>	Worst	Good
<b>=8. Taiwan (TSEC)</b>	Worst	Best
<b>10. Japan (TSE)</b>	Worst	Good
<b>China (SSE/SZSE)</b>	Poor	Good
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	Fair	Best
<b>2. UK (LSE)</b>	Fair	Best
<b>3. Australia (ASX)</b>	Fair	Best

Source: Asian Corporate Governance Association

## The Holy Grail

One way of substantially increasing the amount of time available to vote is to reduce the time taken for meeting notices and votes to pass through intermediaries. If this process could be compressed by minimizing the role of custodians and registrars, then investors would have additional time to make informed voting decisions even if listed companies continued to release their full agendas quite late.

The most effective way to do this is through “electronic voting”, where voting instructions are carried all the way by an electronic platform from investor to share registrar (who then collates them for the issuer). This system does not completely bypass intermediaries such as global and sub-custodians, but their role becomes one of monitoring of votes and accounts rather than processing. In other words, global custodians would no longer have to pass votes along the chain, while sub-custodians would no longer have to print out voting instructions, fill in proxy cards by hand, and either send these cards to the share registrars or attend meetings in person to fill in ballots. The entire manual element at the sub-custodial level would be removed.

The end result is that a considerable amount of time would be saved, probably at least 8-10 days in most markets. And global investors would no longer have to meet deadlines of 10+ days, but could vote up to just one day before meetings.

The two markets in Asia that are most advanced in developing “e-voting” are China and Japan; while Korea and Taiwan are also trying to get systems off the ground. Since the latter three are all well-developed economies, yet pose serious impediments to efficient voting, this suggests that they perceive significant gains from the introduction of e-voting. In China’s case, it appears to be more a case of getting ahead of the technological curve at an early stage in the development of its securities markets.

The system in Japan makes an interesting case study. It is being run by a new company called Investor Communications Japan (ICJ), a joint venture between the Tokyo Stock Exchange (TSE), ADP Investor Communication Services and the Japan Securities Dealers Association (JSDA). The platform is based on ADP’s “ProxyEdge” voting service, which processes almost 100% of the votes cast electronically in the US. ADP stands for Automatic Data Processing. It is also strong in the US in fields such as payroll processing.

After various delays over the past year or so, ICJ became operational in time for the June 2006 proxy voting season in Japan. Around 111 issuers have signed up to the system and most participated in June. Although these numbers are low compared to the 3,000-odd listed companies in Japan and the more than 1,600 firms on the first section of the TSE, they are more impressive when viewed in market-cap terms. The 111 issuers account for 46% of the aggregate market cap of Nikkei 225 companies and 31% of the market cap of all companies listed on TOPIX, according to data supplied by ICJ.

It would appear that the main reason more companies did not sign up was because they wanted to see how the first year of operation went before committing themselves. This is a system that the issuer pays for. Those that did sign up tend to be the more forward-looking firms and/or that have a higher percentage of foreign shareholders. It is likely that the number of participating firms will increase significantly next year. ICJ sees 300 as critical mass.

For investors, by far the biggest advantage of ICJ is that they have until noon of the day before meetings to cast their vote. This has significantly increased the amount of time available for analysis of meeting agendas. The biggest drawback at this stage, however, is that the platform is not yet linked to all global custodians—hence some institutional investors are not able to use it. This issue should be resolved before the June 2007 proxy season. If it isn’t, it rather undermines the TSE’s stated goal of developing the ICJ platform into a “national infrastructure project”.

### 3.3: Information to vote

<b>Best Global Practice</b>	Full agenda with detailed explanation of each agenda item issued at least 28 calendar days before the meeting.
<b>Worst Global Practice</b>	Preliminary agenda (which may or may not change) with few or no details. Full agenda only given at the meeting.

Source: Asian Corporate Governance Association

#### Key issues:

- Institutional investors, especially cross-border ones, typically receive insufficient information from issuers on which to make voting decisions.
- Detailed meeting circulars and annual reports often not ready by the time foreign investors have to cast their vote.

#### ACGA recommendations:

1. Issuers need to produce more informative and clearly written meeting agendas, and to release the final version of these documents at least 28 days in advance of their annual shareholder meetings.
2. Regulators should consider upgrading their listing rules to require a sufficiently high standard of information be provided in meeting circulars.

Late delivery of meeting notices/agendas and insufficient time in which to cast votes are two serious impediments to effective proxy voting in Asia. But as noted in Chapter 2 in the discussion on overall results, neither of these two issues was ranked by our respondents as among the five worst impediments in their view. The issue of information—having sufficient information on which to make an informed voting decision—was. In fact, it came third in terms of the most number of “poor” and “worst global practice” scores.

On this question, every market (including the benchmark markets) received a lower score than for Questions 1 and 2—all falling by a few percentage points or more. The exception was Japan, whose score rose by several percentage points—and whose ranking went from clear last to sixth.

<b>Q3. Information to vote</b>		
	<b>Score (%)</b>	<b>Assessment</b>
<b>1. Hong Kong (SEHK)</b>	65	Fair
<b>2. Singapore (SGX)</b>	57	Poor to Fair
<b>3. Malaysia (BM)</b>	54	Poor to Fair
<b>4. India (BSE/NSE)</b>	50	Poor to Fair
<b>5. Thailand (SET)</b>	49	Poor
<b>=6. Japan (TSE)</b>	49*	Poor
<b>=6. Philippines (PSE)</b>	49*	Poor
<b>8. Indonesia (JSX)</b>	47	Poor
<b>9. Korea (KRX)</b>	43	Poor
<b>10. Taiwan (TSEC)</b>	43*	Poor
<b>China (SSE/SZSE)</b>	44	Poor
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	85	Good
<b>2. Australia (ASX)</b>	84	Good
<b>3. UK (LSE)</b>	83	Good

\*Numbers rounded

Source: Asian Corporate Governance Association

Japan's improved performance reflects the fact that, while most companies there may be slow in releasing information, the quality of what is released is often quite good in regional terms. Certainly better than the average information that investors receive from Indonesia, Korea and Taiwan, and not much behind India and Malaysia.

At its best, the Japanese proxy circular is a self-contained document, including not only the meeting agenda but also relatively extensive background information such as financial statements, income allocation table, information on board composition, biographies of director candidates, the text of amendments to articles and so on. Indeed, the volume of information provided in some Japanese circulars is quite significant. For a sampling of some of the more detailed ones published in English, go to the website of the Japan Investment Forum ([www.japaninvestforum.com](http://www.japaninvestforum.com)) This website was created several years ago by the stock transfer agency department of Sumitomo Trust & Banking as an information bridge between Japanese issuers and their foreign shareholders. It is also a way to encourage foreign shareholders to vote: since Japanese issuers face high quorum requirements, they often need the proxy votes of both their foreign as well as domestic shareholders to reach quorum.

A good example of a detailed agenda is the "convocation notice" published by Kao Corporation on June 1, 2006 for its AGM on June 29—an impressive 28-day notice period. The English translation of the document is 60-pages, the first part of which is the proxy statement (26 pages), the second part is a corporate profile, and the remainder is the business results. The level of detail in the proxy statement is quite extensive and certainly more informative than most AGM notices in Asia. A cover note from the President and CEO, Motoki Ozaki, emphasises that the company understands the difficulties faced by foreign shareholders in participating in Japanese AGMs, hence the English translation. But this is not entirely an altruistic gesture: "As a Japanese company, we face strict quorum requirements for some of the agenda items listed above. Therefore, we strongly urge each and every one of you to exercise your voting right at the AGM."

As the table shows, however, Japan's overall score is still only 49% and it ranks "poor" in qualitative terms on information to vote. This suggests that while respondents may have positive experiences with some leading companies on this issue, there is a drop-off in quality across the board. Since respondents invest in an average of 350 companies in Japan, such a situation is not surprising. Indeed, one respondent that invests in more than 500 companies, and makes a point of voting 100% of its proxies, rated Japan as "worst global practice" on this question. It said it was "voting a lot more proxies" in Japan these days and that it found there was "not enough information on some companies". Another respondent cited the complexity and vagueness of resolutions amending company articles as a specific weakness in proxy statements.

As for other markets, respondents generally felt that the level of information released was not sufficient to make a considered vote. It is striking that the leading market in Asia—Hong Kong—fell by four percentage points compared to Question 1 on notice of shareholder meetings and by a full nine percentage points compared to Question 2 on time to vote. And Hong Kong was the only market to scrape a clear "fair" on this question. One reason for this lower score may be that the pool of companies being assessed under "Hong Kong" includes

mainland Chinese firms listed on the Stock Exchange of Hong Kong. Another factor could be that AGM circulars in Hong Kong are often extremely formulaic, with limited explanation of substantive issues (other than a barrage of legalese) and scant details on candidates nominated for director election, among other things.

In some countries, the meeting agenda may be a single page or even a small item in a newspaper. Additional information, such as director biographies and financial statements, must be gleaned from other sources. And important supplemental information, such as annual reports, is often released several days or even weeks after the agenda and not in time for the AGM. One international investor who has broad experience of voting in Taiwan explained the “proactive” steps that his fund needs to take when, as often happens, issuers do not publish their full agendas sufficiently in advance of global-custodian voting deadlines. They use a range of approaches, including:

- Contacting the company’s IR department;
- Asking their investment analysts to contact the company’s management;
- Using different news releases to extrapolate information;
- Using a proxy research service.

In addition, they “have internal guidelines on how to approach different issues, especially routine/recurring proposals”. And they “vote against proposals where insufficient information is released, as a sign to a company that better disclosure is needed”.

### **Mind the (information) gap**

Respondents were also asked two supplementary questions in this part of our survey: “Do you receive a copy of the annual report in time for the meeting?” and “What additional information would be helpful?”

The most common response to the first of these questions was “no”. A sizeable number of respondents, however, replied “yes” for Hong Kong, Singapore and Malaysia; “sometimes” and “mostly” for India; and “most of the time” for the Philippines.

As for additional information, the most common request was for more detailed background information on directors to be elected. Other items on the wish list included fuller explanation of article amendments, executive remuneration and incentive plans, auditor remuneration, electronic availability of proxy circulars via company websites, the purpose of possible issues of new shares, and possible conflicts of interest for directors.

Specific comments relating to particular markets included, in the case of Japan, pronunciation of directors’ names, more details on compensation and on potential conflicts of interest, rationales for article amendments, and director attendance data.

Other specific comments by market were:

- China: “more detailed circulars” needed;
- Hong Kong: “Chinese companies listed in Hong Kong lack disclosure”;
- India: “not all annual reports available in time for analysis”;
- Indonesia: “annual reports are typically not available at time of vote”;
- Korea: “disclosure of final agendas often at the same time as vote deadlines”;
- Malaysia: “disclosure of circulars commonly at the same time as vote deadlines”;
- Philippines: “annual reports are typically not available at time of vote” and “95% of the time, companies disclose meeting-related information as late as possible, on the eighth day before a meeting”; also, items may be bundled in the initial basic agenda and then unbundled at the last minute;
- Singapore: “disclosure of annual reports and circulars at same time or past vote deadlines”;
- Taiwan: “voting deadlines before final agendas, explanatory information and director names and IDs were available”;
- Thailand: annual reports are only available in time for a few of the largest companies; and explanatory notices should explain resolutions in more detail.

### **Clause for concern?**

A further cause for concern was the “Any other business” clause that allows additional items to be introduced by the company during shareholder meetings. Some (non-investor) interview subjects argued that this was for the benefit of shareholders who may wish to introduce items at the shareholders meetings, rather than the company. But since there are clear guidelines in most markets on how to put forward shareholder proposals for discussion at AGMs, it would make more sense for shareholders to utilise these than wait until the meeting is held to bring up new items for discussion.

## Range of responses

As noted above, this question received a large number of “poor” and “worst global practice” scores. The table below shows that all Asian markets, with the exception of Hong Kong, were rated “worst” by some respondents. This was a different pattern to the previous two questions, which were characterized by a mix of “worst” and “poor” at the bottom end of the range.

At the high end of the range, it can be seen that most markets scored either a “good” or even a “best”, which may seem surprising given the low overall scores and qualitative assessments. However, the fact is that only Hong Kong received more than one “best” rating and most markets that achieved “good” received only one such score (with the exception of Hong Kong and Singapore, which both received several).

<b>Highs and lows</b>		
Range of responses on information to vote		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Hong Kong (SEHK)</b>	Poor	Best
<b>2. Singapore (SGX)</b>	Worst	Best
<b>3. Malaysia (BM)</b>	Worst	Best
<b>4. India (BSE/NSE)</b>	Worst	Good
<b>5. Thailand (SET)</b>	Worst	Good
<b>=6. Japan (TSE)</b>	Worst	Good
<b>=6. Philippines (PSE)</b>	Worst	Good
<b>8. Indonesia (JSX)</b>	Worst	Good
<b>9. Korea (KRX)</b>	Worst	Fair
<b>10. Taiwan (TSEC)</b>	Worst	Good
<b>China (SSE/SZSE)</b>	Worst	Good
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	Fair	Best
<b>2. UK (LSE)</b>	Fair	Best
<b>3. Australia (ASX)</b>	Fair	Best

Source: Asian Corporate Governance Association

## Solutions

Given the lower scores on this issue, and the strong demand from cross-border institutional investors for more information in meeting notices and agendas, the solution to this problem is straightforward: Most listed issuers in Asia need to produce more informative and clearly written meeting agendas, and to release the final version of these documents well in advance of their shareholder meetings (at least 28 days before).

Since much of the subject matter of AGMs is routine and not particularly time sensitive (eg, the amendment of articles, the election or re-election of directors), it should be possible for companies to prepare their agendas well in advance of a meeting. Issuers could consider hiring shareholder communications specialists to assist with this work and/or survey their outside institutional shareholders as to the level of detail they need to make informed voting decisions.

Regulators should consider upgrading their listing rules to require a sufficiently high standard of information is provided in meeting circulars—if companies do not do this under their own steam.

## Did you know?

Companies in Korea and Taiwan are known for changing their meeting agendas right up until (and even during) the meeting. In Taiwan, some research by Institutional Shareholder Services (ISS) in 2004 found that the preliminary agenda changed about 70% of the time. Likewise, in Korea, a general agenda without details is frequently released. The agenda is typically published at 4pm or 5pm on the day of the deadline, usually a Friday, since meetings are generally held 14 days later, also on a Friday.

It is not possible to rely on preliminary agendas in either market to vote proxies given that they are likely to change. This makes life extremely difficult for proxy advisory agents such as ISS—if they incorporate a preliminary agenda into their system, and it changes, this could result in ballots being invalidated. Or it would force them to reissue the agendas every time they changed, something that is operationally very difficult to do. Instead, ISS calls companies prior to the meeting date to see if the company will release materials to them early.

In Taiwan, Article 5 of the “Regulations Governing Content and Supplemental Requirements for Shareholders Meeting Handbooks of Public Companies” states that public companies shall transmit, 30 days prior to their annual shareholder meetings and 15 days prior to a special shareholders meeting, the digital file of the shareholders meeting agenda including the notice of meeting, form of proxy, proposals for discussion, recognition, election of directors or supervisors, and description (parts of the meeting handbook) to the Market Observation Post System (MOPS).

In practice, the ‘summary and details’ proposed for discussion 30 days in advance does not generally include much by way of details. Article 6 of the same regulation requires that the full meeting handbook—ie, the full agenda—and all supplementary materials must be posted on MOPS 10 days prior to both annual and special shareholders meetings. However, this clashes with voting deadlines set by global custodians (an issue outlined in the previous chapters). Further, the names of directors being nominated are often released only five (or less) days before the meeting date, even though this information is required by shareholders to cast a valid vote. This is all especially problematic, given that shareholders owning more than 300,000 shares are required to attend and vote at shareholder meetings (or send an agent to vote in their place).

### 3.4: Availability of translated material

Best Global Practice	Full availability of material translated by the company.
Worst Global Practice	No company translation of material.

Source: Asian Corporate Governance Association

#### Key issue:

- Inadequate translation of detailed meeting circulars in markets where English is not the first language.

#### ACGA recommendations:

1. Listed companies with significant foreign ownership should ensure that all their meeting notices, agendas and circulars are fully translated into English—and published at the same time as the local-language version.
2. Cross-border institutional investors should develop as much Asian-language capacity as possible.
3. Both groups should see this as a source of competitive advantage, not just a cost.

The issue of translation is a sensitive one. Some investors believe that any company whose first language is not English and that has a reasonably high percentage of foreign investors should ensure that its meeting agendas and circulars are fully translated and issued at the same time as the local-language version. At the other end of the spectrum are investors who believe that it is up to investors themselves to build local-language capabilities—to which the first group responds, “How can we possibly be fluent in the language of every market in which we invest?!”

As to whether respondents had Asian language capabilities or not, responses were mixed. US-based funds tended to leave the question blank, answered “no” or “minimal capabilities”, and stated that the proxy advisory firms translated material for them where need be. Some commented that while there had been a large increase in the volume of “front-end” investor-relations material published in English in recent years—especially on company websites—there had been little change when it came to “back-end” material such as proxy forms and agendas. While the research providers translate the title of resolutions into English, they do not, for the sake of speed, translate all the accompanying text in a proxy form.

Some Asia-based respondents, in contrast, believed that their language capabilities were a competitive advantage and they did not see why companies in which they have invested should incur the extra cost of publishing translated material. Where respondents do have Asian language capabilities, the most common language is Chinese followed by Japanese and Korean.

As to which markets performed best on this question, there was, not surprisingly, a big gap between the five leading and five lagging markets, dividing neatly on whether

English was the dominant language of government and business. The percentage point difference between the two markets in equal fourth (Malaysia and the Philippines) and Thailand in sixth was almost 11 points. And the difference in score between the top- and bottom-ranked markets was 35 percentage points—the widest gap on any question.

<b>Q4. Availability of translated material</b>		
	<b>Score (%)</b>	<b>Assessment</b>
<b>1. Hong Kong (SEHK)</b>	82	Good
<b>2. Singapore (SGX)</b>	77	Fair to Good
<b>3. India (BSE/NSE)</b>	76	Fair to Good
<b>=4. Malaysia (BM)</b>	71	Fair to Good
<b>=4. Philippines (PSE)</b>	71	Fair to Good
<b>6. Thailand (SET)</b>	60	Fair
<b>7. Japan (TSE)</b>	50	Poor to Fair
<b>8. Indonesia (JSX)</b>	49	Poor
<b>=9. Korea (KRX)</b>	47	Poor
<b>=9. Taiwan (TSEC)</b>	47	Poor
<b>China (SSE/SZSE)</b>	42	Poor
<b>Benchmark markets</b>		
<b>1. UK (LSE)</b>	92	Good to Best
<b>2. Australia (ASX)</b>	90	Good to Best
<b>3. US (NYSE/NASDAQ)</b>	90	Good to Best

Source: Asian Corporate Governance Association

### **Escaping the bottom three (again)**

This was one of four questions on which Japan did not rank in the bottom three markets (the other three being “information to vote”, “voting by show of hands rather than ballot” and “independent audit of vote results”). While Japan’s average score for this question was 50% (“poor to fair”), most respondents marked it “fair”. Its average was brought down, however, by a third of respondents giving it “poor” and one marking it “worst”. These results would appear to reflect the fact that, as noted in Chapter 3.3, many of the larger and more global Japanese companies are now translating their meeting circulars, while other, mostly smaller, listed issuers are not.

There are also many Western intermediaries operating in Japan, notably Institutional Shareholder Services (ISS), which advises institutional investors on voting, and Georgeson Shareholder Analytics, which advises issuers on shareholder communications. ISS helps to speed up the process of getting information to foreign shareholders by translating outline agendas. It then gives advice on the full agenda/circular to its clients (although it does not provide full translations of these). ICJ, the electronic voting platform mentioned in Chapter 3.2, also provides translations of outline agendas for uploading into its system.

## Range of responses

The range of responses on this question also showed a clear bifurcation between the markets where English is dominant and those where it is not. The lowest rating that Hong Kong, Singapore and India received was "fair", while Malaysia and the Philippines both picked up one "poor" score each. The bottom five markets were all rated "worst" by some respondents, with Indonesia, Korea and Taiwan all receiving the vast majority of such scores. Japan and Thailand picked up just one "worst" score each.

In terms of the highest ratings, the top five markets all received "best" scores, while the picture for the bottom five was mixed. Taiwan received a "best" score, but only one, while Thailand, Indonesia and Korea were all marked "good" by a few respondents. The best that Japan got was "fair".

As for modal responses (ie, the most frequent answer), Hong Kong, India, Malaysia, the Philippines and Singapore were all marked "good". Indonesia, Japan, Korea and Thailand all received "fair", while for Taiwan it was "worst global practice" (thus dragging that country's score down). Incidentally, for China the modal response was "poor".

<b>Highs and lows</b>		
<b>Range of responses on translated material</b>		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Hong Kong (SEHK)</b>	Fair	Best
<b>2. Singapore (SGX)</b>	Fair	Best
<b>3. India (BSE/NSE)</b>	Fair	Best
<b>=4. Malaysia (BM)</b>	Poor	Best
<b>=4. Philippines (PSE)</b>	Poor	Best
<b>6. Thailand (SET)</b>	Worst	Good
<b>7. Japan (TSE)</b>	Worst	Fair
<b>8. Indonesia (JSX)</b>	Worst	Good
<b>=9. Korea (KRX)</b>	Worst	Good
<b>=9. Taiwan (TSEC)</b>	Worst	Best
<b>China (SSE/SZSE)</b>	Worst	Fair
<b>Benchmark markets</b>		
<b>1. UK (LSE)</b>	Fair	Best
<b>2. Australia (ASX)</b>	Fair	Best
<b>3. US (NYSE/NASDAQ)</b>	Fair	Best

Source: Asian Corporate Governance Association

## **Solutions**

The International Corporate Governance Network (ICGN) recommended as far back as 1998, when it published its first “Global Share Voting Principles”, that:

“Companies with internationally diversified ownership should ensure that agendas and notices are accessible to shareholders in at least one internationally-accepted language. Companies should ensure that translations are timely, accurate and complete, with the meaning and purpose of resolutions clear”.

While the ICGN does not say so explicitly, it would be logical to conclude that English is what is envisaged. It is certainly the most widely accepted international language.

The use of English in the reports, announcements, notices and circulars of Asian companies has certainly expanded in recent years, particularly in response to the growing proportion of foreign share-ownership around the region—and the need of companies in markets such as Japan, Korea and Taiwan to ‘get the foreign vote in’ if they are to achieve high quorum requirements. An interviewee in Indonesia, meanwhile, said that it should be “no problem” for companies to translate full agendas into English.

Given that the use of English is already increasing in Asia, it would make sense for Asian listed companies that have, or wish to have, a significant foreign ownership to ensure that all their meeting notices, agendas and circulars are fully translated into English—and published at the same time as the local-language version. Rather than see this as a chore and a cost, companies could see it as a competitive advantage and a mark of both their professionalism and fair treatment of shareholders. (While “significant” may be difficult to define, a threshold of 5-10% would seem reasonable. Alternatively, companies could base the translation decision on whether or not their overseas shareholders were demanding it.)

At the same time, it would also make sense for cross-border institutional investors to develop as much Asian-language capacity as possible. This would not only assist them in the process of understanding complex issues to be voted on at shareholder meetings, but could give them an edge in their dialogue with company management.

## Did you know?

Differences in the quality and quantity of translated material in Asia were also found in a 2004 survey of company websites in Indonesia, Korea, Malaysia and Thailand. Carried out by two Korean academics under the auspices of the Asian Development Bank Institute in Tokyo, the study found that:

- 93% of Malaysian company websites were informative in both English and the local language compared to 57% for the sample of Thai companies, 51% for Korean companies and 45% of Indonesia companies.
- The remaining 7% of Malaysian companies did not have a website, compared to 25% of Thai companies, 1% of Korean companies and 30% for Indonesian companies.
- 21% of Korean company websites were informative, but with no information in English, compared to 5% for Indonesian companies and 3% for Thai companies.
- 22% of Korean company websites gave limited information in English compared to 11% for Indonesia and 10% for Thailand.
- 9% of Indonesian company websites were not informative and gave no information in English, compared to 5% for both Korea and Thailand.

(Source: "Corporate Governance in Asia—Recent Evidence from Indonesia, Republic of Korea, Malaysia and Thailand", by Sang-Woo Nam and Il Chong Nam. Asian Development Bank Institute, October 2004)

## A bilingual bank

China Construction Bank, the first H-share company to join the Hang Seng Index in Hong Kong, recently asked shareholders to elect whether they wished to receive future communications in Chinese, English or both. Published on August 6, 2006, the announcement stated that "for the purposes of environmental protection and cost saving", and in accordance with relevant listing rules, the bank wanted to ascertain its shareholders' preferences on both the "means of receipt" (in printed or electronic form) and language.

It said it would send a letter to its shareholders on August 7 together with a reply form, prepared in English and Chinese, and a pre-paid addressed envelope to its shareholders to allow them to elect to receive future corporate communications either through the bank's website, on CD-ROM, in printed English form only, in printed Chinese form only, or in both printed English and Chinese.

If no reply was received from shareholders by 27 August 2006, the following arrangements would apply:

- "The printed Chinese version of each future Corporate Communication will be sent to all Hong Kong shareholders who are natural persons with a Chinese name using a Hong Kong address; and
- "The printed English version of each future Corporate Communication will be sent to all overseas shareholders and all Hong Kong shareholders (other than natural persons with a Chinese name) using a Hong Kong address."

Whether a shareholder was a Hong Kong or an overseas shareholder would be determined by the address of that shareholder appearing on the register of members of the bank.

Shareholders are entitled at any time to change their choice of means of receipt and language.

### 3.5: Confirmation that vote has been received

<b>Best Global Practice</b>	Confirmation from share registrar that vote has been received. (Note: Confirmation from custodian bank does not count.)
<b>Worst Global Practice</b>	No confirmation.

Source: Asian Corporate Governance Association

#### Key issue:

- Institutional investors voting shares of Asian listed companies receive no clear confirmation that their vote has been received by share registrars/transfer agents. (Nor do they receive such confirmation elsewhere in the world.)

#### ACGA recommendation:

1. Intermediaries in the voting process need to develop systems for quickly informing investors that their votes have been received by share registrars and passed on to issuers. If this proves unworkable, the sooner that electronic voting platforms are developed the better.

Strictly speaking, since investors in Asia and elsewhere receive no formal confirmation from the end of the voting chain—the share registrars/transfer agents—that their votes have been received, all markets should be rated “worst global practice” on this question. Respondents did judge markets harshly, giving a high number of “worst” scores. But they also gave a large number of “poor” and “fair”, suggesting that many of them were assessing the issue more in terms of whether they received confirmation from their custodian banks or not. Some respondents did not answer the question, saying they were not in a position to do so; or since all their voting was executed by custodians, they could “only confirm that custodians received our instructions, but not the listed company”.

In terms of the regional ranking on this question, what is striking from the overall percentage scores and assessments is how closely packed the 10 markets are. There is little difference at the top of the table between

<b>Q5. Confirmation of vote received</b>		
	<b>Score (%)</b>	<b>Assessment</b>
<b>1. Hong Kong (SEHK)</b>	58	Poor to Fair
<b>=2. Malaysia (BM)</b>	58*	Poor to Fair
<b>=2. Philippines (PSE)</b>	58*	Poor to Fair
<b>4. Singapore (SGX)</b>	53	Poor to Fair
<b>5. Indonesia (JSX)</b>	52	Poor to Fair
<b>=6. India (BSE/NSE)</b>	50	Poor to Fair
<b>=6. Korea (KRX)</b>	50	Poor to Fair
<b>=6. Taiwan (TSEC)</b>	50	Poor to Fair
<b>9. Japan (TSE)</b>	49	Poor
<b>10. Thailand (SET)</b>	48	Poor
<b>China (SSE/SZSE)</b>	40	Poor
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	80	Good
<b>2. Australia (ASX)</b>	72	Fair to Good
<b>3. UK (LSE)</b>	70	Fair to Good

\*Numbers rounded.

Source: Asian Corporate Governance Association

Hong Kong, Malaysia and the Philippines. The top eight markets are all assessed as “poor to fair”. And the gap between Hong Kong and the bottom-ranked market, Thailand, is only 10 percentage points.

As for the benchmark markets, only the US scored reasonably well. Australia and the UK both earned scores well below their normal level.

But why does it matter whether vote confirmation is given? One reason is that votes can be lost along the voting chain, typically around the sub-custodian and share-registrar end of it. A second is that since institutional investors are going to considerable expense to vote their shares, a clear confirmation that their votes have been received seems both fair and sensible.

### Did you know?

In a landmark 2004 review of the impediments to voting shares in the UK, the report’s author, Paul Myners, wrote that “for many years, there have been anecdotal stories about investment managers submitting votes which appear not to have been recorded; in other words the votes are ‘lost’”. He went on to cite the example of Unilever’s 2003 annual general meeting, after which it wrote to ten of its major institutional shareholders that appeared to have voted 50% or less of their holdings to establish why they had not voted their entire holdings. Three reported that they had given instructions to vote, but these were never received by the issuer.

On August 10, 2006, AMP Capital Investors of Australia announced that it had found that its voting instructions had been lost in at least 4% of 209 votes it analysed. As one of the largest shareholders in Australia, it was able to detect instances where it’s “against” or “abstain” votes had not been recorded. Its investigation found instances where late trading had caused the share registry to disregard voting instructions on an entire shareholding, instances of human error where instructions had not been followed, and confusion when the address on the proxy form was different to that on the lodgement of proxies in the formal notice of meeting.

### Range of responses

The range of responses on this question also showed some striking patterns, as the table on the next page illustrates. All markets received “worst global practice” scores, while the highest rating for most markets was “good”. Three received “best global practice”, although in each case from only one respondent. (China was an outlier with a highest score of “fair”.)

In terms of modal responses, “fair” was the most common score for several markets: Indonesia, Japan, Malaysia, Philippines, Singapore and Thailand. Markets that received an equal number of “fair” and “poor” included: India, Korea and Taiwan. China received an equal number of “fair”, “poor” and “worst”. Although Hong Kong’s most common rating was “good”, this was only by a slight margin and it too received an equal number of “fair”, “poor” and “worst” scores.

### Solutions

Finding a solution to what appears on the surface to be a simple IT or communication problem—informing institutional investors that their votes have been received—is probably not going to be easy. This is largely because of the use by custodian banks of “omnibus accounts” to hold the

<b>Highs and lows</b>		
<b>Range of responses on vote confirmation</b>		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Hong Kong (SEHK)</b>	Worst	Best
<b>=2. Malaysia (BM)</b>	Worst	Best
<b>=2. Philippines (PSE)</b>	Worst	Best
<b>4. Singapore (SGX)</b>	Worst	Good
<b>5. Indonesia (JSX)</b>	Worst	Good
<b>=6. India (BSE/NSE)</b>	Worst	Good
<b>=6. Korea (KRX)</b>	Worst	Good
<b>=6. Taiwan (TSEC)</b>	Worst	Good
<b>9. Japan (TSE)</b>	Worst	Good
<b>10. Thailand (SET)</b>	Worst	Good
<b>China (SSE/SZSE)</b>	Worst	Fair
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	Fair	Best
<b>2. Australia (ASX)</b>	Poor	Best
<b>3. UK (LSE)</b>	Fair	Good

Source: Asian Corporate Governance Association

shares of many different investing institutions. Such accounts usually appear on the shareholder register under the street name of a sub-custodian bank (eg, XYZ Nominees Ltd), meaning that both the listed company and its share registrar have no complete and real-time knowledge as to who the investment institutions behind the nominee company are (although issuers do often hire consultants to dig around and find out who some of their larger institutional shareholders are, if this basic fact is not already known to the company). While this system provides anonymity to investors (something many of them like for competitive or other reasons), and is cost effective for custodian banks, it also makes it impossible for share registrars to send confirmation to individual institutions that have voted their shares.

It would seem technically possible, on the other hand, for share registrars to send an electronic message to each sub-custodian bank that has voted shares, stating the number of shares voted and under which nominee company name(s). The sub-custodian could then check this against its records and send an electronic message to the relevant global custodian, which could then pass it on to each institutional investor that voted, confirming their vote has been received.

Putting such a system in place would require extensive coordination among several different actors in the chain, as well as new investment in IT systems that can easily talk to each other. This would be time consuming and probably expensive, which is no doubt one reason why it is not in place already. An even bigger reason is that investors have not yet asked for it. In fact, such a system may prove to be unworkable in practice. A bit like trying to stick Meccano and Lego pieces together.

A more elegant solution would be to create an integrated electronic voting platform, such as the

one in Japan, where intermediaries such as custodian banks play a monitoring role (no longer an information delivery and vote processing role) and vote confirmations are received from the platform as part of the package. This still does not give investors absolute certainty that their votes have reached the share registrars/transfer agents—because the vote confirmation comes from the platform, which sits between the investors and the transfer agents, not from the transfer agents themselves—but it represents a significant improvement on the current system. Moreover, based on the first season’s trial in Japan in mid-2006, it appears that all went quite smoothly; hence there is little reason to doubt that votes did not reach their intended target.

### **The ISS view**

The issue of vote confirmation was another question where ISS took a more critical view, on balance, than most of our respondents. In aggregate, our respondents rated eight Asian markets as “poor to fair”, while giving “poor” to Japan, Thailand and China.

ISS, on the other hand, evenly rated every Asian market and the three benchmark markets as “poor”.

### 3.6: Voting by hand vs by ballot/poll

<b>Best Global Practice</b>	All resolutions voted by ballot/poll.
<b>Worst Global Practice</b>	All resolutions voted by show of hands.

Source: Asian Corporate Governance Association

#### Key issues:

- Voting by show of hands remains prevalent in Asia, despite the fact that it disenfranchises both investors who vote by proxy (since they normally have no idea what happens to their vote) and those who attend the meeting (since their full voting rights are not respected under the show-of-hands method).
- Cost arguments in favour of voting by show of hands ignore the changing reality of ownership structures in Asia. Given the increasing number of cross-border shareholders, the proportion unable to attend AGMs is rising, hence voting by “ballot” or “poll” (where all votes are counted) is both fair and reasonable. It also gives the results more legitimacy.

#### ACGA recommendations:

1. Issuers should vote all resolutions by poll at every shareholder meeting, even so-called routine ones.
2. Regulators should amend listing rules to make voting by poll mandatory.
3. Investors should call for polls at AGMs.

Many of the eyebrow-raising stories one hears about impediments to proxy voting in Asia relate in one way or another to the system for counting votes. Coming in at number 1 is undoubtedly the story of the sub-custodian bank in Taiwan, as briefly related at the start of this report, that no longer casts any “against” votes by show of hands or “acclamation” (shouting yes or no) because of intimidation from companies. The message that the bank sends out with the outline AGM agendas of issuers states quite clearly that:

*“In cases where the client instructs us to vote against any proposal to be discussed at a shareholders meeting and the voting with respect to such proposal is done by ballot, we or our designee will fill out the ballot in respect of such proposal in accordance with the client’s instructions. However, if the voting at the shareholders meeting is done by acclamation, we/our designee will not take any action in respect of the relevant proposal.”* (Italics added)

Probably the second worst story is one that involved a foreign institutional investor whose proxy agent was physically removed from a shareholder meeting in Thailand in 2005 just before a critical vote was about to take place. When the agent was allowed to return to the meeting he discovered that the time for the vote had passed.

Neither of these two situations would likely have occurred if voting by “ballot” or “poll” had been the norm, since under such a system shareholders fill in proxy forms or ballots and all the votes are counted (ideally by an independent person). In Taiwan, the sub-custodian bank would be voting all the instructions it received from clients without the fear of embarrassing itself or angering management. While in Thailand the institution’s votes would have been counted irrespective of whether its agent was in the room or not.

Tilting shareholder meetings in favour of the controlling shareholder or management is not a feature of only the lower-ranked markets. In Singapore, most listed companies still do not vote by poll and are therefore unlikely to be taking proxy votes properly into account (as the stories later in this chapter relate). In Hong Kong, voting by poll is a relatively recent phenomenon, generated in part by the efforts of David Webb, Editor, Webb-site.com and a local shareholder activist, and in part by changes to the listing rules that made voting by poll mandatory for certain resolutions, such as those relating to: connected transactions, transactions that require independent shareholder approval, the granting of options to a substantial shareholder or independent director, and transactions in which a shareholder has a material interest. Yet many issuers in Hong Kong still vote by show of hands on other resolutions and duly stack their meetings with friendly shareholders, including family members and employee shareowners.

### Did you know?

What is wrong with voting by show of hands? Here are the main arguments against:

1. When a vote is taken on a show of hands, each person attending the meeting has one vote on each resolution. An investor with 100 shares, therefore, has the same voting rights as a shareholder with 100,000 or one million shares. This undermines the voting rights of the person or institution with more shares—something that could make a difference in a closely contested vote. It also undermines the “one share, one vote” principle, a core pillar of modern corporate governance.
2. Voting by show of hands favours incumbent management, since they will attend the meeting in person and will arrange for relatives and friendly employee/minority shareholders to attend also. Domestic institutional shareholders find it difficult to attend (because of their large number of portfolio companies and limited staff), while most cross-border investors find it impossible to attend in person.
3. Votes sent in by proxy are easily ignored, especially if the chairman of the meeting is appointed as the proxy (which is common). When voting is done on a show of hands, chairmen often omit to announce the number of proxies they hold. Best practice says that after each vote by hand, the chairman should announce the number of proxies voting for and against. This is to assure the meeting that the result would have been the same had a poll been taken and all the votes counted.
4. If the chairman holds a large number of proxies voting against, and he believes that a vote by poll would produce a different result to one by show of hands, then he should call a poll. But since company law and listing rules in Asia are vague on this point, it seems reasonable to conclude that many polls that should be called are being quietly dropped.
5. Results of AGMs: Issuers that vote by show of hands typically publish short announcements simply stating that “all resolutions at our AGM were passed”. Hence, investors voting by proxy receive no information as to the actual balance of votes for and against, whether their votes were even counted (probably not), and whether their votes made any difference. This hardly constitutes fair treatment of shareholders in a modern securities market.

Source: Asian Corporate Governance Association

## ACGA survey responses

Interestingly, this was one question where survey respondents tended to divide along geographic lines—some in Asia had no clear view on the issue, while those outside the region strongly believed voting by ballot/poll was preferable.

The most striking result was Japan's first place, leaving Hong Kong in second place (for the one and only time in this survey). Respondents who marked Japan highly remarked that they were confident that their vote had been counted. Indeed, as the Japan Investment Forum explains on its website, voting by show of hands is "not a regulation in Japan" and further: "Proxy votes are counted in advance, principally by Stock Transfer Agencies such as ourselves, and reported to the company by the date of the AGM. Shareholders who attend the AGM can say yes or no at the AGM according to the number of shares he or she holds as of the record date." (The Japan Investment Forum is a web-based information service set up by Sumitomo Trust and Banking.)

<b>Q6. Voting by hand vs by poll</b>		
	<b>Score (%)</b>	<b>Assessment</b>
<b>1. Japan (TSE)</b>	68	Fair
<b>2. Hong Kong (SEHK)</b>	64	Fair
<b>3. India (BSE/NSE)</b>	57	Poor to Fair
<b>4. Singapore (SGX)</b>	56	Poor to Fair
<b>=5. Korea (KRX)</b>	56*	Poor to Fair
<b>=5. Malaysia (BM)</b>	56*	Poor to Fair
<b>=7. Indonesia (JSX)</b>	53	Poor to Fair
<b>=7. Taiwan (TSEC)</b>	53	Poor to Fair
<b>9. Thailand (SET)</b>	52	Poor to Fair
<b>10. Philippines (PSE)</b>	51	Poor to Fair
<b>China (SSE/SZSE)</b>	43	Poor
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	100	Best
<b>2. UK (LSE)</b>	95	Good to Best
<b>3. Australia (ASX)</b>	90	Good to Best

\*Numbers rounded.

Source: Asian Corporate Governance Association

Other notable results included Singapore dropping to fourth place, Korea rising to fifth, and Taiwan jumping to equal seventh. Despite the many impediments to effective proxy voting in Taiwan, issuers there do tend to vote by ballot/poll for director elections, while voting other resolutions by show of hands or acclamation.

This was also the only question where one of the benchmark markets, namely the US, achieved 100%. While the scores for the benchmark markets are impressive, what is less impressive is the huge gap between their scores and those of the Asian markets.

(Note: One caveat on this question is that many respondents said they were not well aware of voting practices in Asia since they voted by proxy and did not attend meetings. Some were unable to complete this question, resulting in it having the fewest number of responses.)

### **'My first AGM'**

The following story was related by a fund manager after attending his first annual meeting in Singapore:

"My first experience of a Singaporean AGM. About 100 shareholders. Average age 70 or so. Bussed in from the MRT. Held in the canteen. All very excited at the prospect of the grub on offer.

"I was there as an observer only, with no legal standing as I was not in possession of a proxy card, which had been allocated to a larger single shareholder than one of our clients. I was not allowed to ask questions, and would not have been allowed to ask the board to take into account our proxy votes (apparently I would have been asked to leave the meeting had I done so).

"After much discussion of the report and accounts...and a rather farcical element when it was agreed that three directors should be elected at once (which was later disputed), the two key resolutions were voted on...Having said that he had been asked to vote as proxy on behalf of a number of clients' custodians, the Chairman then forgot to do so.

"So the resolutions were passed on a show of hands, whilst the proxy votes against (numbering about one million) did not appear to have been voted. I only found out that there were one million votes against when I approached (name deleted) at the end who rather indiscreetly showed me.

"But then that begs the question as to what happened to our 10 million votes, which we think we have voted, but it appears we have not. I'm afraid we will have to chase the custodian to see whether they were registered with the company. If so, then I think we will have to approach the company to see whether these votes were cast."

### **Polls apart**

To illustrate the difference between voting by poll in Hong Kong and Singapore, we examined the most recent notices of AGM results for constituent companies in the Hang Seng Index (HSI) in Hong Kong and the Straits Times Index (STI) in Singapore. The outcome was:

#### **Hong Kong**

- 30 of the 33 companies comprising the HSI automatically conducted polls at their AGMs for all resolutions and included a detailed breakdown of the voting results by resolution.
- The remaining three companies provided no announcement of their AGM results (for reasons that were unclear).

#### **Singapore**

- Of the 49 companies comprising the STI, just two companies conducted voting at their AGMs by way of poll—Noble Group and TPV Technology.
- Almost all the others voted by show of hands and simply announced that all the resolutions proposed at their meeting had passed. One exception was SingTel, which voted by show of hands, but also disclosed the total number of proxies it received and how they voted.
- In the case of three companies, there was no announcement of their AGM results.

## Range of responses

As the table below indicates, the range of responses on this question was quite scattered. The top-ranked markets all received a wide range of scores, while the lower-ranked markets received not only some “worst” and “poor” scores, but some “best” scores as well (albeit not many of them).

The modal responses were also quite scattered. For Japan it was actually “poor”, although its overall score was lifted by several “good” and “best” scores. For Hong Kong it was “fair” and “poor”. For India and Singapore it was “poor”, although India was pushed up by some “fair” and “good” scores, and Singapore by some “fair” ratings.

The most frequent response for Korea, Malaysia and Taiwan was “fair”, while Thailand garnered equal numbers of “fair” and “poor” scores. For China and the Philippines, the modal score was also “poor”.

<b>Highs and lows</b>		
Range of responses on voting by hand vs by poll		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Japan (TSE)</b>	Poor	Best
<b>2. Hong Kong (SEHK)</b>	Poor	Best
<b>3. India (BSE/NSE)</b>	Poor	Good
<b>4. Singapore (SGX)</b>	Worst	Best
<b>=5. Korea (KRX)</b>	Worst	Good
<b>=5. Malaysia (BM)</b>	Poor	Good
<b>=7. Indonesia (JSX)</b>	Poor	Good
<b>=7. Taiwan (TSEC)</b>	Worst	Best
<b>9. Thailand (SET)</b>	Worst	Best
<b>10. Philippines (PSE)</b>	Poor	Good
<b>China (SSE/SZSE)</b>	Worst	Fair
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	Best	Best
<b>2. UK (LSE)</b>	Good	Best
<b>3. Australia (ASX)</b>	Fair	Best

Source: Asian Corporate Governance Association

### The ISS view

On this issue, ISS took a similar view in that it ranked Japan as top in Asia, but gave it a “global best practice” score, and ranked Hong Kong as “fair” (the same as our respondents).

It was more critical, however, about the other markets: India and Korea were rated “poor”, while all other Asian markets received a “worst global practice”.

### 3.7: Clustering of meeting dates

<b>Best Global Practice</b>	Meeting dates spread out over 2-3 months.
<b>Worst Global Practice</b>	Meeting dates clustered on 2-3 days.

Source: Asian Corporate Governance Association

#### Key issue:

- Many listed companies in Japan and Taiwan concentrate their annual general meetings over a limited number of days during the AGM season. Since most release their AGM proxy materials at around the same time, this forces investors to analyse a huge number of agendas at once, thus reducing their ability to make informed voting decisions.

#### ACGA recommendations:

1. Companies should release their meeting notices and circulars as early as possible (28 days before), so that their shareholders have more time to vote.
2. Companies should consider bringing forward the date of their AGM, if possible, to avoid clustering.
3. Regulators need to consider how laws and regulations could be amended to encourage non-clustering of meetings.

For institutional investors to be able to meet the deadlines set by their global custodians for casting votes, meetings should ideally be scheduled over two to three months. While most markets in the region do largely adhere to global best practice, a few, in particular Japan, fall far short of the mark. The majority of Japanese companies listed on the first section of the Tokyo Stock Exchange hold their annual general meetings over two days at the end of June each year. It is common for more than 300 meetings to be held on June 28 and around 1,400 meetings on June 29. It was because of this that Japan received a large number of “worst global practice” scores on this question and a very low overall mark of 29%.

Taiwan also fared poorly in this area for a similar reason, although the sheer number of meetings clustered on the same day is far less there than in Japan. Its overall score was 57% and it ranked second last.

The traditional reason given for clustering was to avoid having to pay off gangsters who threatened to disrupt meetings unless suitably compensated. In Japan they are called “sokaiya” and in Taiwan, “zhiye gudong” (meaning “professional shareholder”). As a representative of one sub-custodian bank in Taiwan said, “They threaten the companies. Hence many companies hold their AGM on the same day or in some remote location. This causes a lot of problems for us, since we need to send people (to these meetings) on behalf of our clients.” Taiwanese professional shareholders are also known to force companies to purchase gifts from certain suppliers so as to avoid having their meetings disrupted by these same suppliers. The gifts are then given as souvenirs to the shareholders who attend the AGM.

Outside of Japan and Taiwan, however, most markets scored generally well on this question—and higher than on other questions. Indeed, as noted in Chapter 2, this question received the most number of “good” and “best global practice” scores of any question.

Two other notable features of the responses on this question included the high scores for China and Indonesia and, surprisingly, Singapore’s low score. This was by far Singapore’s lowest ranking on any of the questions. The most plausible reason for this is that because companies in Singapore must release their annual results within 60 days of their financial-year end, and as many

companies have a similar December year-end, AGMs become bunched at around the same time (April to May). In Hong Kong, in contrast, companies have 120 days in which to release their annual results, but some release their results in 55-85 days, allowing the AGM season to be more spread out (April to June). Indonesia’s high score is probably due to the fact that foreign institutions invest in only a small number of companies there, hence the issue of clustering becomes less important.

Interestingly, the gap in scores on this question between Hong Kong and the lowest benchmark market, the US, was narrow—only five percentage points.

### Range of responses

Since this question received the most number of “best” and “good” scores of any question, it not surprisingly also received the lowest number of “poor” and “worst” scores.

As the table on the following page shows, the five higher ranked markets did not score lower than a “fair” (except for Malaysia), while all received a “best”. The five lower ranked markets (with the exception of Thailand) all received “poor” or “worst” ratings, but this was balanced by some “good” and, in the case of Singapore, a “best”.

“Good” was the most common response for China, Hong Kong, Korea and Singapore. Indonesia and Malaysia received an equal number of “good” and “fair”. For India, the Philippines and Thailand it was “fair”. While Taiwan, oddly, received an equal number of “good” and “poor” ratings.

<b>Q7. Clustering of meeting dates</b>		
	<b>Score (%)</b>	<b>Assessment</b>
<b>1. Hong Kong (SEHK)</b>	75	Fair to Good
<b>2. Indonesia (JSX)</b>	72	Fair to Good
<b>3. India (BSE/NSE)</b>	72	Fair to Good
<b>4. Philippines (PSE)</b>	71	Fair to Good
<b>5. Malaysia (BM)</b>	70	Fair to Good
<b>6. Thailand (SET)</b>	66	Fair
<b>7. Korea (KRX)</b>	66	Fair
<b>8. Singapore (SGX)</b>	65	Fair
<b>9. Taiwan (TSEC)</b>	57	Poor to Fair
<b>10. Japan (TSE)</b>	29	Worst
<b>China (SSE/SZSE)</b>	69	Fair
<b>Benchmark markets</b>		
<b>1. Australia (ASX)</b>	89	Good
<b>2. UK (LSE)</b>	85	Good
<b>3. US (NYSE/NASDAQ)</b>	80	Good

Source: Asian Corporate Governance Association

<b>Highs and lows</b>		
<b>Range of responses on clustering of meeting dates</b>		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Hong Kong (SEHK)</b>	Fair	Best
<b>2. Indonesia (JSX)</b>	Fair	Best
<b>3. India (BSE/NSE)</b>	Fair	Best
<b>4. Philippines (PSE)</b>	Fair	Best
<b>5. Malaysia (BM)</b>	Poor	Best
<b>6. Thailand (SET)</b>	Fair	Good
<b>7. Korea (KRX)</b>	Poor	Good
<b>8. Singapore (SGX)</b>	Worst	Best
<b>9. Taiwan (TSEC)</b>	Worst	Good
<b>10. Japan (TSE)</b>	Worst	Good
<b>China (SSE/SZSE)</b>		
	Poor	Good
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	Fair	Best
<b>2. Australia (ASX)</b>	Fair	Best
<b>3. UK (LSE)</b>	Fair	Best

Source: Asian Corporate Governance Association

## **Solutions**

Since most markets performed well on this question in terms of relatively high percentage scores, there is less of a problem to resolve. The exceptions are Japan and Taiwan, where both listed issuers and regulators need to put their heads together to find solutions to the issue of clustering.

Our recommendation is, firstly, that companies in both Japan and Taiwan release their meeting notices and circulars as early as possible (at least 28 days before meetings), so that their shareholders have more time to vote. This is in the interest of companies as much as shareholders, because if shareholders of Company A, for example, can vote well in advance of deadlines set by their custodian banks, and before they have to face a deluge of meeting notices from Companies B to Z, then it is reasonable to conclude that Company A stands a better chance of achieving strict quorum requirements.

Secondly, companies in Japan and Taiwan should consider bringing forward the date of their AGM, if possible, to avoid clustering. Some leading firms are doing just this.

Thirdly, regulators need to consider how laws and regulations could be amended to encourage non-clustering of meetings.

### 3.8: Bundling of resolutions

<b>Best Global Practice</b>	One resolution per item.
<b>Worst Global Practice</b>	Bundling of items, such as director elections, article amendments, into one resolution.

Source: Asian Corporate Governance Association

#### Key issues:

- Company law in many Asian markets allows for the bundling of more than one item or issue into the same resolution. If these items are substantially different in nature, and should be voted on separately, this undermines shareholder rights.
- Issuers often provide inadequate information on bundled resolutions.

#### ACGA recommendations:

1. Issuers should avoid combining items that are substantially different into one resolution. Each item should be put into a separate resolution.
2. Investors consider voting against bundled resolutions as a matter of policy (unless the bundled items are innocuous).

Bundling is an issue guaranteed to raise the ire of many investors who take their voting seriously. As with “Any other business” resolutions, some institutions vote against bundled resolutions as a form of protest. It is not necessarily because they are opposed to the content of the resolutions, although they may be, but because they believe that bundling is wrong in principle. Often management misinterprets an investor’s abstention or “against” vote on bundled items as a vote of a no confidence, when it is not. It is simply a “shot across the bows”. Unbundling all resolutions is the simple answer.

In our survey, bundling was not an issue that caused respondents as much concern as other issues. It was not in their list of top-five concerns (see Chapter 2) and it received the third highest number of “best” and “good” scores among all 10 questions.

As the table shows, the percentage scores on this question were higher for all markets than their final aggregate scores (see Chapter 2) and most of them received at least a “fair” (compared to “poor to fair” in the overall results).

<b>Q8. Bundling of resolutions</b>		
	<b>Score (%)</b>	<b>Assessment</b>
<b>1. Hong Kong (SEHK)</b>	73	Fair to Good
<b>2. Singapore (SGX)</b>	69	Fair
<b>3. India (BSE/NSE)</b>	66	Fair
<b>4. Thailand (SET)</b>	63	Fair
<b>=5. Malaysia (BM)</b>	62	Fair
<b>=5. Taiwan (PSE)</b>	62	Fair
<b>7. Indonesia (JSX)</b>	60	Fair
<b>8. Philippines (PSE)</b>	58	Poor to Fair
<b>9. Korea (KRX)</b>	56	Poor to Fair
<b>10. Japan (TSE)</b>	55	Poor to Fair
<b>China (SSE/SZSE)</b>	48	Poor
<b>Benchmark markets</b>		
<b>=1. US (NYSE/NASDAQ)</b>	85	Good
<b>=1. UK (LSE)</b>	85	Good
<b>3. Australia (ASX)</b>	84	Good

Source: Asian Corporate Governance Association

Objectively speaking, however, “fair” is not a fantastic result. It shows that while bundling may not be among the worst problems in Asian proxy voting systems, it is still an issue and that all markets could improve in this area—especially those that scored the lowest, such as the Philippines, Korea, Japan and China.

### Range of responses

The range of responses on this question underlines this point. Two markets, Japan and Korea, received “worst global practice” scores, while all the rest received “poor” scores. Indeed, “poor” was the most frequent score for China, Indonesia, Japan and the Philippines.

The most frequent score for several markets, including India, Korea, Malaysia, Singapore, Taiwan and Thailand, was “fair”. Only Hong Kong achieved “good” as its modal score.

At the top end of the range, it is notable that all markets, except China, received a “best global practice” score. But none earned more than one such response.

<b>Highs and lows</b>		
<b>Range of responses on bunding of resolutions</b>		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Hong Kong (SEHK)</b>	Poor	Best
<b>2. Singapore (SGX)</b>	Poor	Best
<b>3. India (BSE/NSE)</b>	Poor	Best
<b>4. Thailand (SET)</b>	Poor	Best
<b>=5. Malaysia (BM)</b>	Poor	Best
<b>=5. Taiwan (PSE)</b>	Poor	Best
<b>7. Indonesia (JSX)</b>	Poor	Best
<b>8. Philippines (PSE)</b>	Poor	Best
<b>9. Korea (KRX)</b>	Worst	Best
<b>10. Japan (TSE)</b>	Worst	Best
<b>China (SSE/SZSE)</b>	Poor	Fair
<b>Benchmark markets</b>		
<b>=1. US (NYSE/NASDAQ)</b>	Fair	Best
<b>=1. UK (LSE)</b>	Fair	Best
<b>3. Australia (ASX)</b>	Fair	Best

Source: Asian Corporate Governance Association

## Solutions

Regulators in Asia and elsewhere have tried to discourage bundling through quasi-voluntary codes of best practice, rather than amendments to laws or listing rules. This is partly because any amendment to company law would normally apply to all companies, not just publicly listed ones, and that would likely be seen by the business community as overkill. And because regulators tend to shy away from telling issuers how to run their shareholder meetings. Ironically, in Asia, issuers tend to view quasi-voluntary codes as effectively mandatory and find it easier to comply with them than explain why they do not.

The UK Combined Code of Corporate Governance, published in July 2003, states that:

“The company should propose a separate resolution at the AGM on each substantially separate issue and should in particular propose a resolution at the AGM relating to the report and accounts.” (D.2.2) (Italics added)

This is a “code provision” in the Code, meaning that listed companies must either comply with it or explain why they do not.

In November 2004, Hong Kong published a new Code on Corporate Governance Practices that closely followed the UK Code. It states that:

“In respect of each substantially separate issue at a general meeting, a separate resolution should be proposed by the chairman of that meeting.” (E.1.1)

Hong Kong also followed the UK practice and made this a “code provision” (with the same “comply or explain” imperative).

In Singapore, the Council on Corporate Disclosure and Governance published a revised Code of Corporate Governance in July 2005. It following the UK Code too, stating that:

“There should be separate resolutions at general meetings on each substantially separate issue. Companies should avoid “bundling” resolutions unless the resolutions are interdependent and linked so as to form one significant proposal. Where resolutions are “bundled”, companies should explain the reasons and material implications.” (15.2)

This is called a “guideline” in the Singapore Code and must also be complied with or explained.

Our recommendation is that issuers take these code provisions seriously and ensure that resolutions at shareholder meetings are not bundled. Investors could also make effective use of their voting rights by voting against or abstaining on resolutions that are bundled for no good reason.

### 3.9: Publication of vote results

<b>Best Global Practice</b>	Full announcement not more than one day after meeting of all vote results for each resolution.
<b>Worst Global Practice</b>	Minimal announcement stating “all resolutions were approved”.

Source: Asian Corporate Governance Association

#### Key issues:

- Most issuers in Asia do not publish detailed announcements of their AGM voting results, leaving shareholders in the dark.
- Voting by show of hands contributes to the publication of minimal voting results, since this method produces no actual voting data.

#### ACGA recommendation:

1. Issuers should vote all resolutions by poll and make a full announcement of results not more than one day after their AGM.

Investors are frustrated regionally at the lack of publication of clear voting results, one of the main causes of which is the lack of voting by poll. As one fund manager in South-east Asia recounted:

“I was the only person to put up my hand to vote “against” from the floor, but at least the Chairman also voted on behalf of the other proxies against. However, he then announced that the resolution had been carried “on the number of votes”. However, it was impossible to know if it was carried on the showing of hands or the actual number of shares cast, so I asked them afterwards and they still would not tell me how many shares were actually voted against. There is no law requiring them to do so...”

While Hong Kong ranked first on this question, its overall score was low and it rated an assessment of only a “poor to fair”. Yet it is one of the few markets in the region where voting by poll is required for certain transactions and, although not required to do so, most of the larger listed companies now vote on a poll for all AGM resolutions as a matter of course (see Chapter 3.6)—as do an increasing number of mid-caps. The end result is that these companies publish detailed announcements of their AGM votes, with statistics on the total number of shares able to vote and the number of shares voted “for” and “against” each resolution (as well as a percentage breakdown).

In Singapore, which ranked second but whose score was several percentage points below Hong Kong, there is considerably less detailed publication of voting results. A couple of index companies, Noble Group and TPV Technology (which is also listed in Hong Kong), do vote by poll and publish detailed statistics. SingTel, the main telecoms company, votes by show of hands, but publishes the results of all the proxy votes it receives as part of its “continuing efforts to enhance disclosures to shareholders”. But most other companies just publish the following type of announcement:

“Pursuant to Rule 704(14) of the Listing Manual, we are pleased to announce that all resolutions as set out in the Notices of AGM and EGM were passed by the shareholders at the AGM and EGM respectively held today.”

While leading companies in some other Asian markets do publish detailed voting results, generally the quality of disclosure in this area is low, as the table indicates.

What is interesting to note is the performance of India and Thailand, which rank second last and last, respectively. As in other questions where they have done badly, all the other markets also performed poorly. But in areas where the leading markets have generally done well, India and Thailand have also been strong performers. This suggests that improvements in practices by leading markets have a positive effect on India and Thailand to improve their own practices, whereas they are less likely to have any such an affect on Korea, Taiwan and Japan.

<b>Q9. Publication of vote results</b>		
	<b>Score (%)</b>	<b>Assessment</b>
<b>1. Hong Kong (SEHK)</b>	58	Poor to Fair
<b>2. Singapore (SGX)</b>	52	Poor to Fair
<b>=3. Malaysia (BM)</b>	47	Poor
<b>=3. Philippines (PSE)</b>	47	Poor
<b>5. Japan (TSE)</b>	44	Poor
<b>6. Indonesia (JSX)</b>	43	Poor
<b>=7. Korea (KRX)</b>	43*	Poor
<b>=7. Taiwan (TSEC)</b>	43*	Poor
<b>9. India (BSE/NSE)</b>	42	Poor
<b>10. Thailand (SET)</b>	42*	Poor
<b>China (SSE/SZSE)</b>	42	Poor
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	80	Good
<b>2. Australia (ASX)</b>	77	Fair to Good
<b>3. UK (LSE)</b>	72	Fair to Good

\*Numbers rounded

Source: Asian Corporate Governance Association

### Range of responses

The range of survey responses on this question were identical for each market—all spread from “worst” to “best”, as the table on the next page shows. However, only one market—Hong Kong—received more than one “best”, while all markets earned several “worsts” and “poors”, including Hong Kong. Indeed, this was the question that received the second highest number of “poor” and “worst” scores of any question.

Not surprisingly, the most frequent response for several markets was in fact “worst”, including: India, Japan, Korea, Singapore, Taiwan and Thailand.

Indonesia scored an equal number of “worst” and “poor” scores, while for China the modal response was “poor”. For Malaysia and the Philippines, the most frequent response was “fair”, but they also received almost as many “worst” ratings.

For Hong Kong, it was “worst” and “good”, thus reflecting the differing vote publication practices among listed companies there.

<b>Highs and lows</b>		
Range of responses on publication of vote results		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Hong Kong (SEHK)</b>	Worst	Best
<b>2. Singapore (SGX)</b>	Worst	Best
<b>=3. Malaysia (BM)</b>	Worst	Best
<b>=3. Philippines (PSE)</b>	Worst	Best
<b>5. Japan (TSE)</b>	Worst	Best
<b>6. Indonesia (JSX)</b>	Worst	Best
<b>=7. Korea (KRX)</b>	Worst	Best
<b>=7. Taiwan (TSEC)</b>	Worst	Best
<b>9. India (BSE/NSE)</b>	Worst	Best
<b>10. Thailand (SET)</b>	Worst	Best
<b>China (SSE/SZSE)</b>	Worst	Best
<b>Benchmark markets</b>		
<b>1. US (NYSE/NASDAQ)</b>	Fair	Best
<b>2. Australia (ASX)</b>	Fair	Best
<b>3. UK (LSE)</b>	Fair	Good

Source: Asian Corporate Governance Association

## Solutions

Issuers should not only vote all AGM resolutions by poll, they should publish detailed announcements of the actual voting results for each resolution—as leading companies in Hong Kong and some other markets do.

Publication of vote results gives investors who vote by proxy a clear idea of how the vote went and by what margin different resolutions passed or failed. Such transparency is appropriate and necessary in a securities market in which a high proportion of shareholders are based overseas and cannot easily attend AGMs.

### 3.10: Independent audit of vote results

<b>Best Global Practice</b>	Complete audit by an independent auditor.
<b>Worst Global Practice</b>	No audit.

Source: Asian Corporate Governance Association

**Key issue:**

1. Since most issuers in Asia do not vote by poll, they also do not ensure that votes cast at their AGMs are independently audited (ie, counted).

**ACGA recommendations:**

1. Issuers should vote by poll and engage independent auditors to scrutinise the vote.
2. In addition to making voting by poll mandatory, regulators should require issuers to engage independent auditors to scrutinise voting results.

There are few markets in Asia, with the exception of Hong Kong and Japan, which have rules or clear norms governing the independent audit or counting of voting results at annual general meetings. This may be one of the reasons why this question caused the most concern to our respondents and received the highest number of “poor” and “worst global practice” scores of any of the questions (see Chapter 2). Lack of publication of vote results came a close second.

In Hong Kong, the listing rules state that if voting at a general meeting is taken on a poll, the issuer shall:

“... appoint its auditors, share registrar or external accountants who are qualified to serve as auditors for the issuer as scrutineer for the vote-taking and state the identity of the scrutineer in the announcement.” (Rule 13.39(5))

It is quite common for accounting firms, such as Deloitte, Ernst & Young and KPMG, to act as scrutineers for the vote taking at AGMs in Hong Kong. Sometimes this task falls to share registrars, as it often does in Japan (where they are called “transfer agents”).

Nevertheless, this question witnessed Hong Kong’s lowest score on any of the ten questions. And the difference between Hong Kong’s score and the lowest ranked market was only 11 percentage points, one of the smallest gaps in the survey.

This was also the only question in the survey where the UK ranked ahead of the US and achieved a score of 100%.

The sharp contrast between the Asian and benchmark scores highlights just how much room for improvement the region has in this area.

<b>Q10. Independent audit of vote results</b>		
	<b>Score (%)</b>	<b>Assessment</b>
<b>1. Hong Kong (SEHK)</b>	51	Poor to Fair
<b>2. Singapore (SGX)</b>	50	Poor to Fair
<b>=3. Korea (KRX)</b>	46	Poor
<b>=3. Malaysia (BM)</b>	46	Poor
<b>5. Taiwan (TSEC)</b>	44	Poor
<b>6. Japan (TSE)</b>	42	Poor
<b>=7. Indonesia (JSX)</b>	42*	Poor
<b>=7. Philippines (PSE)</b>	42*	Poor
<b>9. Thailand (SET)</b>	42*	Poor
<b>10. India (BSE/NSE)</b>	40	Poor
<b>China (SSE/SZSE)</b>		
	35	Worst to Poor
<b>Benchmark markets</b>		
<b>1. UK (LSE)</b>	100	Best
<b>2. US (NYSE/NASDAQ)</b>	96	Good to Best
<b>3. Australia (ASX)</b>	84	Good

\*Number rounded

Source: Asian Corporate Governance Association

### Range of responses

The range of responses is virtually identical to the previous question—from “worst” to “best” for all markets, with the exception of China. However, only Hong Kong and Singapore received more than one “best” score, while all markets received several “worst” scores.

Indeed, “worst” was the most frequent response for all markets except China and Thailand (for which it was “poor”), and Indonesia and the Philippines (an equal number of “worst” and “poor”).

<b>Highs and lows</b>		
Range of responses on independent audit of vote results		
	<b>Lowest</b>	<b>Highest</b>
<b>1. Hong Kong (SEHK)</b>	Worst	Best
<b>2. Singapore (SGX)</b>	Worst	Best
<b>=3. Korea (KRX)</b>	Worst	Best
<b>=3. Malaysia (BM)</b>	Worst	Best
<b>5. Taiwan (TSEC)</b>	Worst	Best
<b>6. Japan (TSE)</b>	Worst	Best
<b>=7. Indonesia (JSX)</b>	Worst	Best
<b>=7. Philippines</b>	Worst	Best
<b>9. Thailand (SET)</b>	Worst	Best
<b>10. India (BSE/NSE)</b>	Worst	Best
<b>China (SSE/SZSE)</b>		
	Worst	Fair
<b>Benchmark markets</b>		
<b>1. UK (LSE)</b>	Best	Best
<b>2. US (NYSE/NASDAQ)</b>	Good	Best
<b>3. Australia (ASX)</b>	Fair	Best

Source: Asian Corporate Governance Association

## **Solutions**

In addition to voting by poll, issuers should engage the services of independent auditors to scrutinise the voting results of their AGMs.

Regulators in Asia also need to take a more serious view of this issue and consider revising their listing rules to require companies to not only vote by poll, but have the results independently counted.

### **The ISS view**

The issue of independent audit of vote results was another area where ISS took a much more critical view than most of our respondents.

ISS rated two Asian markets—Japan and Korea—as “poor”. And the remaining eight? “Worst global practice”.

The only consolation was that ISS was also critical of the US, UK and Australia, rating each of them just “fair”.

# Chapter 4

## Recommendations and Action Points

Throughout this report we have made a number of recommendations on which listed companies, institutional investors, regulators and intermediaries could act to bring about better, more efficient and fairer proxy voting systems in Asia. For the sake of convenience, our main recommendations are collected together below and also sorted by sector. Some additional action points are included.

Most of the impediments to effective proxy voting in Asia could be resolved quickly by listed companies acting on their own initiative, or by investors demanding change. Most of the problems do not require regulatory intervention—or, at least, not right away. Where they do, we have recommended this. But our view is that the more the market can resolve these issues on its own, the more efficient and cost-effective these solutions will be. This is the philosophy underlying the following recommendations.

### Recommendations by issue

#### 1. Notice of shareholder meetings

Final and detailed notices/agendas should be published at least 28 calendar days before general meetings.

#### 2. Time to vote before meetings

There should be at least 14 calendar days between the issuance of full agendas and the average voting deadlines set by global custodians.

Governments and stock exchanges should give serious consideration to the establishment of national electronic voting systems.

#### 3. Information to vote

Issuers need to produce more informative and clearly written meeting agendas, and to release the final version of these documents at least 28 days in advance of their annual shareholder meetings.

Regulators should consider upgrading their listing rules to require a sufficiently high standard of information is provided in meeting circulars.

#### 4. Availability of translated material

Listed companies with significant foreign ownership should ensure that all their meeting notices, agendas and circulars are fully translated into English—and published at the same time as the local-language version.

Cross-border institutional investors should develop as much Asian-language capacity as possible.

Both groups should see this as a source of competitive advantage, not just a cost.

### **5. Confirmation that vote has been received**

Intermediaries in the voting process need to develop systems for quickly informing investors that their votes have been received by share registrars and passed on to issuers. If this proves unworkable, the sooner that electronic voting platforms are developed the better.

### **6. Voting by hand vs by ballot/poll**

Issuers should vote all resolutions by poll at every shareholder meeting, even so-called routine ones.

Regulators should amend listing rules to make voting by poll mandatory.

Investors should call for polls at AGMs.

### **7. Clustering of meeting dates**

Companies should release their meeting notices and circulars as early as possible (28 days before), so that their shareholders have more time to vote.

Companies should consider bringing forward the date of their AGM, if possible, to avoid clustering.

Regulators need to consider how laws and regulations could be amended to encourage non-clustering of meetings.

### **8. Bundling of resolutions**

Issuers should avoid combining items that are substantially different into one resolution. Each item should be put into a separate resolution.

Investors should consider voting against bundled resolutions as a matter of policy (unless the bundled items are innocuous).

### **9. Publication of vote results**

Issuers should vote all resolutions by poll and make a full announcement of results not more than one day after their AGM.

### **10. Independent audit of vote results**

Issuers should vote by poll and engage independent auditors to scrutinise the vote.

In addition to making voting by poll mandatory, regulators should require issuers to engage independent auditors to scrutinise voting results.

## Recommendations by sector

### Listed companies

- Publish final and detailed notices/agendas at least 28 calendar days before general meetings.
- Produce more informative and clearly written meeting agendas and circulars.
- Ensure that there is at least 14 calendar days between the issuance of full agendas and the average voting deadlines set by global custodians in your market.
- If you have significant foreign ownership, ensure that all your meeting notices, agendas and circulars are fully translated into English—and published at the same time as the local-language version.
- Bring forward the date of your AGM if clustering is a potential problem.
- Avoid combining items that are substantially different into one meeting resolution (ie, “bundling”). Put each item into a separate resolution.
- Vote all resolutions by poll at your shareholder meetings, even so-called routine resolutions.
- Announce the detailed results of your AGM not more than one day later.
- Engage independent auditors to scrutinise your AGM vote.

### Institutional investors

- Encourage issuers to release their detailed meeting notices and circulars no later than 28 days before a meeting (and to provide translations, if necessary).
- Ask regulators to upgrade listing rules to require a sufficiently high standard of information is provided in meeting circulars.
- Encourage governments and stock exchanges to give serious consideration to the establishment of national electronic voting systems.
- Develop as much Asian-language capacity as possible.
- Vote against bundled resolutions as a matter of policy (unless the bundled items are innocuous).
- Routinely call for polls at AGMs and ask issuers to publish full announcements of the results not more than one day after the meeting.
- Have a policy of voting all your shares.
- Review your internal voting processes to isolate strengths and weaknesses.
- Examine the feasibility and cost of setting up a corporate governance unit to support voting.

### Regulators

- Governments and stock exchanges should give serious consideration to establishing national electronic voting systems that all investors can access.
- Upgrade listing rules to require a sufficiently high standard of information is provided in meeting circulars.
- Amend listing rules to make voting by poll mandatory.

- Consider how laws could be amended to encourage non-clustering of meetings.
- Amend listing rules to require issuers publish detailed AGM notices and circulars at least 28 days before meetings if there is no action on this score from issuers.

#### Custodian banks

- Support moves to create national electronic voting systems.
- If not already done so, outsource the provision of detailed meeting notices and circulars to institutional investors to a specialist proxy advisory/voting service that can deliver the material quickly and efficiently through the Internet. Do away with the manual inputting of basic or partially detailed meeting information and the sending of such incomplete information to investors.
- Until full electronic voting becomes a reality: Work with other intermediaries, such as share registrars, to develop systems for quickly informing investors that their votes have been received and passed on to issuers.
- Ask share registrars for a detailed outline of the results of AGM meetings.
- Support efforts by investors to get detailed meeting information at least 28 calendar days before shareholder meetings.
- Support efforts by investors to push companies to vote by poll.

# Asian Corporate Governance Association (ACGA)

- The Asian Corporate Governance Association (ACGA) is a non-profit, membership association dedicated to promoting substantive improvements in corporate governance in Asia through independent research, advocacy and education.
- ACGA engages in a constructive and direct dialogue with regulators, institutional investors and listed companies on key corporate governance issues and works towards making improvements.
- ACGA was formed in 1999 from a belief that corporate governance was fundamental to the long-term development of Asian economies and capital markets.
- ACGA has grown to a membership of more than 50 influential investment institutions, professional firms and listed companies globally and within the Asia-Pacific region.

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