Roundtable Discussion:

"Proxy Voting Systems in Singapore: The Way Forward"

Singapore, 15th January 2007

Presentation 1: Jamie Allen (JA), ACGA

JA presented an overview of ACGA's proxy voting survey from 2006 (see attached presentation), including some new ACGA research on the extent to which Straits Times Index (STI) companies in Singapore met global standards for proxy voting. STI issuers did well, for example, in areas such as meeting notice periods and allowing investors sufficient time to vote, but performed poorly on voting by poll and less well on clustering of meeting dates and the timely release of annual reports.

Only two companies in the STI voted by poll at their AGMs in 2006: TPV Technology, which has a primary listing in Hong Kong (hence holds its AGM there), and Noble Group, which is headquartered in Hong Kong. JA commented that while many company secretaries in Singapore had raised concerns about the cost of voting by poll, experience in Hong Kong showed that the cost was relatively small.

Question & Answer Session

A retail shareholder participant voiced concerns over voting by poll, seeing the current system as satisfactory and quick. As a regular attendant at AGMs, he argued that the time it would take to count votes would lead to a disjointed general meeting, with 20 minutes of counting after each resolution voted on, and contended that in the majority of cases there was nothing controversial to vote on at shareholder meetings. He believed that current mechanisms for demanding a poll were adequate and noted that even after a vote by show of hands had been taken, the chairman of a meeting could still demand a poll if he was not happy with the results.

JA responded by saying that there were ways in which voting by poll could be carried out efficiently. For example, voting cards could be given to each participant, collected at the end of the meeting after discussion of all resolutions, then the meeting adjourned for counting to take place. The results could be released later. He also noted that there were now certain issues on which institutional investors wanted to vote, such as the 20% mandate for the issuance of new shares without pre-emptive rights, and which they no longer saw as "routine". Unlike in the past, minority investors were starting to vote against some resolutions and only polls made these votes transparent.

Mohd Nawaz Jiffry Vilcassim (MNJV) of DBS Bank (local custodian division), commented that sub-custodian banks received many instructions to vote, but under the current structure it was very difficult to properly represent all the voting permutations, whilst a poll would truly give effect to all the wishes of clients.

Lau Chee-Kin of Citigroup (local custodian division) agreed that clients wanted to see voting by poll. He also raised the issue of Singapore's two-proxy card rule and said that this was a major restriction on AGM attendance by shareholders who held their shares through the nominee companies of sub-custodian banks.

Another attendee (from a listed company) commented that the show-of-hands voting method, because it only allowed one vote per person, discriminated against sub-custodian banks that wanted to reflect fully the voting choices of their clients.

One attendee, however, raised concerns as to the added cost of voting by poll for smaller companies.

The meeting then turned to the question of clustering of meeting dates in Singapore. Since many listed companies have a December year-end, and as the rule in Singapore is that AGMs must be held within four months of the year end, this tends to produce a clustering of meetings in the last week of April. Almost half of the 46 STI issuers that held AGMs in 2006 timed their meeting for the last week of April. While this does not appear to pose any major difficulty for locally based asset managers voting their shares, it did show up as a problem in the ACGA proxy voting survey (which aggregated responses from mostly overseas institutional investors).

Mak Yuen Teen, CGFRC, and Roundtable MC, suggested that one way to resolve the clustering issue could be to increase the four-month deadline to five months. However, a delegate countered that this might simply lead to issuers delaying their AGMs until the end of May! He also noted that earlier AGMs meant earlier payment of dividends, which many small investors welcomed.

Presentation 2: Sim Joo Lay (SJL), Affiliate, SAICSA

SJL noted that there was little data on proxy voting in Singapore. In addition, the local press has reported poor levels of attendance at AGMs by shareholders. She argued that the system needed to be improved, minimising "the possibility of important resolutions being passed by shareholders who are simply the ones who have bothered to vote".

In her presentation (see attached file), SJL highlighted the fact that the revised "Code of Corporate Governance 2005" stated that: "Companies should encourage greater shareholder participation at AGMs, and allow shareholders the opportunity to communicate their view on various matters affecting the company." (Principle 15)

SJL then reported the findings of a joint research by SAICSA and herself on SGX-listed companies meeting notice periods and clustering of AGM dates in 2006. The project compared 42 Straits Times Index (STI) issuers and the rest of 498 listed issuers. She found that 6% of the STI companies released their meeting notices more than 25 days before their AGM and 16% released them 21 to 25 days before. (Note: The ACGA benchmark for best global practice in this area is 28 days or more.) Of the 498 smaller listed companies, 14% released their notices more than 30 days before meetings, 29% achieved 26 to 30 days, and another 24% published their notices 21 to 25 days before.

(Note: The requirement in Singapore is that listed companies must give their shareholders 14 clear days notice for meetings with only ordinary resolutions, but 21 days if any special resolutions are to be voted on. These need 75% of the vote to pass.)

On the issue of clustering, SJL found that 62% of STI issuers and almost 76% of the 498 smaller companies held their AGMs in the fourth week of the fourth month after their financial year-end (ie, the latest possible date).

Question & Answer Session

Yvonne Goh (YG), KCS Corporate Services, voiced some concern over how to count votes at AGMs and the length of time it would take, echoing the comments of an earlier speaker. But she added that while voting by poll was more cumbersome, it could be done efficiently (especially if the base of independent scrutineers was enlarged). Moreover, if companies definitely decided to vote by poll before the meeting, that would allow their professional advisers and company secretaries to be better prepared.

YG also voiced concerns about the appointment of the chairman as a proxy. It is common in Singapore for the chairman of a meeting to raise his hand twice on a vote by show of hands—once for "For" and once for "Against"—since he typically held proxies instructing him to vote both ways. Current legislation provides that each member (whether present personally or by proxy if the Articles of a company so provide) at a meeting is entitled to one vote on a show of hands. It therefore appears that the Chairman acting as a proxy is entitled to one vote on a show of hands. She recounted a case where an institutional shareholder attended a meeting to see if his votes Against were actually cast, so the chairman had to vote both ways for the sake of appearances (even though the company had been advised that this was not in order). YG commented that this was an unsatisfactory state of affairs and only voting by poll would solve the problem.

Another attendee pointed out that Central Provident Fund (CPF) investors in Singapore could attend meetings as observers, but had no voting or speaking rights in the meeting (unlike individual shareholders whose names were on a company's shareholder register). CPF investors could only vote through their custodian nominee. This was an area that should be addressed, she said.

Elizabeth Chia (EC), also representing DBS Bank (local custodian division), pointed out that custodian bank nominee companies, which acted as the registered shareholder for most institutional investors, also had very limited voting rights and their clients were not happy about it. Custodian nominee companies, despite the fact that they represented numerous shareholders and millions of votes, were restricted to the same two proxy cards that any other individual or corporate shareholder could enjoy. EC said that the Companies Act would need to be amended to resolve this situation.

MNJV, of DBS, suggested that one way would be to amend the Companies Act to grant the right to appoint more than two proxies to those entities licensed to provide custodian services. This would ensure that registered shareholders which needed the flexibility to appoint more than two proxies (ie, custodian bank nominee companies) could enjoy this. This would be fair.

One company secretary noted that their company had tried to follow the recommendations of the revised Singapore Code of Corporate Governance regarding multiple proxies—that listed companies voluntarily amend their Articles to allow for it—but concluded that giving this right to only one type of shareholder (ie, custodian banks) could create two classes of shareholder. This was because each shareholder was only permitted one vote on a show of hands. Hence, even if you gave one shareholder the right to appoint 10 proxies, say, only one of the proxies would be able to vote on a show of hands.

Some delegates questioned whether this would be the case, since this problem did not occur in other markets where multiple proxies were allowed (eg, Hong Kong) and which had similar legal systems to Singapore. Moreover, nominee companies were only shareholders in a technical sense (ie, their names were on the shareholder register because they held shares on behalf of institutional investors in omnibus accounts). They did not have the right to buy and sell shares, nor to vote shares without instructions from their clients. Allowing for multiple proxies was the only way in which the wishes of the underlying owners could be represented.

Peter Butler (PB), Governance for Owners, noted that institutional investors were global and used custodian banks for convenience, but they still wanted to be represented at shareholder meetings. We had to get to the stage where the real owner had the right to decide who went to meetings, PB said, adding that proxy voting issues would likely become more complex in future years. He believed the answer eventually had to be electronic meetings in which shareholders from around the world could participate and where they had a chance to vote after issues were discussed (rather than having to cast their vote beforehand, as was the norm when voting by proxy). PB also commented that there was simply "more to vote on" today than there was 10 years ago.

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Comment 1: Reggie Thein (RT), SID
RT began his comments by noting that voting by poll was a more democratic way to organise shareholder meetings than voting by show of hands. In his opinion, the cost of voting by poll was not a big issue; and in any case, being a listed company involved additional costs.

RT posed two questions for the Roundtable. First, were hedge funds borrowing stock just to vote shares and thereby influence the outcome of meetings? He gave the example of Henderson Investments in Hong Kong, where a privatisation of the company had been defeated in part, it is believed, through the voting of borrowed shares. Second, were international proxy voting advisers playing a positive role in facilitating voting?

PB said there were some abuses with funds borrowing shares in order to vote them, but in his view not too many. He highlighted the International Corporate Governance Network's guidelines on stock lending best practices as a useful document, but noted it was not a law. If borrowers such as hedge funds wanted to abuse the system, there was not much you could do right now. The key was transparency, he said. Lent stock should be disclosed so that issuers and registrars knew the long-term economic owner and could approach them to recall lent stock in advance of a shareholder's meeting should the need arise.

On the topic of proxy voting advisers, the consensus among delegates was that international voting agents provided good broad coverage of markets and fulfilled a useful and necessary role, but sometimes lacked a nuanced understanding of local issues in Asia. It would be helpful if they set up more offices in different markets.

Comment 2: Peter Butler (PB)
PB began by noting that the voting of shares was essentially about the accountability of issuers to their shareholders. He added that it was not good enough for investors just to vote, they had to vote "intelligently".

While voting practices in the US and UK may be the best in the world, neither system was perfect and Asian markets should not necessarily copy them in full, he argued. The US, for example, was "all about compliance" and was "not a role model that Asia wants to follow". While investors in the UK discovered a few years ago that some of the votes they had cast did not reach companies and this led to the formation of an official committee to investigate proxy voting systems. "Use the US, UK and Australia as your objective standard (benchmark), but do not copy them as they are today. There are a lot of problems (in these markets) and there are going to be a lot of changes for the better. There is a global process of improvement," he said.

PB commented that while he agreed with the overall conclusions and recommendations of the ACGA survey on proxy voting, he differed on the point that governments and stock exchanges should help to create electronic voting

platforms. He argued that this was the responsibility of custodians, registrars and issuers themselves (especially their directors).

Open Discussion

Mak Yuen Teen, Roundtable MC, asked if it was true that most fund managers did not care about proxy voting?

Hugh Young (HY), Aberdeen Asset Management, said he generally agreed that most did not care. They are meant to tick the box that they care about corporate governance, he said, but he rarely sees fund managers at AGMs in Singapore. HY added that he would like to see issuers in Singapore at least announce the number of proxy votes For and Against each AGM resolution, as is the rule in the UK.

One attendee noted that most institutional investors are more interested in voting with their feet than voting their shares. And instead of attending AGMs, they preferred to write directly to companies with their complaints and suggestions.

PB noted that many large pension funds were realising that most of their external fund managers were unlikely to ever take their long-term interests fully into account.

MNJV commented that as a custodian he noted an increasing trend by his clients to want to vote. So the issue needs to be addressed at the earliest opportunity.

HY said that this raised some interesting issues as to who was a "shareholder"? A leading lawyer in Singapore had concluded that a shareholder was the person or organisation that had the right to vote. One practical application of this is the effect on a fund manager which held 4% of company in accounts where it had the right to vote and another 1% of the same company in an account where it did not have the right to vote. Given it holds 5% of the company, should it disclose itself as a substantial shareholder? Under the Banking Act in Singapore, the answer appears to be yes. But under the Companies Act, it is less clear.

One attendee asked how much information was sufficient in an AGM meeting notice, for example in relation to the issuing of shares or election of directors? What model should they follow?

JA replied that there was no set framework to follow, but that issuers should provide investors with substantive business reasons as to why, for example, they wanted mandates to issue shares on a non-preemptive basis or why they had chosen to nominate certain people as new directors. Including only boilerplate legalistic statements in an AGM notice or circular was not helpful to investors trying to vote their shares in an informed way.

Key Roundtable Themes & Conclusions

Issues on which there was general consensus at the Roundtable:

1. **More than two proxies for nominee accounts:** There is an urgent need to allow registered shareholders who are licensed to provide custody services to appoint more than two proxies for shareholder meetings. Several speakers suggested amending the Companies Act to allow for this change.

2. **Voting by show of hands:** There is a need to replace this with voting by poll, at least for the larger listed companies in Singapore. Whether this should be achieved through regulatory change or voluntary action, however, was not discussed in detail. More information on the practicalities and costs of voting by poll would be helpful for company secretaries.

3. **Clustering of AGM dates:** While not as serious an issue as voting by show of hands, it would be helpful if issuers actively tried to spread out their meeting dates—rather than timing their AGMs for the last week of the fourth month after their financial year ends.

Other issues discussed:

1. **Deadline for holding AGMs:** Should this be extended from four months to five months? Would a longer timeframe only encourage issuers to delay their meetings?

2. **Meeting notice periods:** Some speakers suggested that consideration be given to extending the meeting notice period from 14 to 28 days.

3. **Attendance of CPF-IS members at AGMs:** It would be fair to allow CPF investors to not only attend meetings, but to vote and speak at them as well.