

## Annual General Meeting Minutes Value Creation: Moving Forward

Mohd Shazwan Bin Mohd Ariffin<sup>1</sup>, Wan Nordin Bin Wan-Hussin<sup>2</sup>,  
Siti Seri Delima Binti Abdul Malak<sup>3</sup>

<sup>1</sup>Othman Yeop Abdullah Graduate School of Business, Universiti Utara Malaysia, Malaysia,  
E-mail: [mohd\\_shazwan1@oyagsb.uum.edu.my](mailto:mohd_shazwan1@oyagsb.uum.edu.my)

<sup>2</sup>Othman Yeop Abdullah Graduate School of Business, Universiti Utara Malaysia, Malaysia,  
E-mail: [wannordin@uum.edu.my](mailto:wannordin@uum.edu.my)

<sup>3</sup>Tunku Puteri Intan Shafinaz School of Accounting, Universiti Utara Malaysia, Malaysia,  
E-mail: [seridelima@uum.edu.my](mailto:seridelima@uum.edu.my)

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### Abstract

*Under Section 343 (1) of Malaysian Companies Act 2016, all public companies are statutorily required to prepare, record and keep their minutes after the general meeting was held. However, starting in 2016, revised Bursa Malaysia Listing Requirements under Chapter 9.21 Paragraph 2(b) only require all public listed companies to publish a summary of key matters discussed at the AGM as soon as possible, after the conclusion of the AGM. The future of AGM minutes is still uncertain as most of the companies are reluctant to disclose their AGM minutes. Instead, they choose to merely comply to the minimum requirements such as the key matters discussed. This paper provides descriptive insights on the AGM minutes based on the level of disclosure especially since this matter had been raised by the Minority Shareholders Watch Group (MSWG) through the Malaysia-ASEAN Corporate Governance report in 2010. Based on the data collected from the MSWG report, the general overview showed that majority of all Malaysian listed companies were unwilling to publish AGM minutes on their corporate websites. This paper examines the importance of disclosure of AGM minutes on corporate websites based on the practical, regulatory and literature perspectives. Guided by the question, "Do you think it is a good move to conduct virtual AGM meetings during an unpleased situation?" this paper may serve as a starting point to further empirical testing or measurements to examine the determinants for AGM minutes.*

**Keywords:** annual general meeting, minutes, key matters, minority shareholders watch group, Malaysia.

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<sup>1</sup><sub>2</sub>On July 18, 2018, Bursa Malaysia Berhad released a letter to the board of directors (listed issuers/listed corporations) on compliance with Paragraph/Rule 9.21 of the Main/ACE Market Listing Requirements.

## INTRODUCTION

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As the regulator of Malaysian capital market, Bursa Malaysia has always updated its listing requirements in accordance with the current situations involving a spectrum of corporate governance perspective. Starting in July 1, 2016, Bursa Malaysia Listing Requirements had come up with an initiative that requires all Malaysian listed companies to have a website that provides information of a summary discussion at the AGM. For this reason, as stated under Chapter 9.21 Paragraph (2)(b), as soon as the conclusion of the AGM has been reached, the listed companies are required to provide the summary information on their websites (Main Market Listing Requirement, 2016: p. 915).

The mandatory publication of key information discussed during general meeting on corporate websites forms a different view from the company's management. As highlighted in a local newspaper, most of the Malaysian listed companies had been reluctant to disclose their AGM minutes on their corporate websites. One of the possible reasons is to the safeguard their own interests, since the majority of Malaysian companies are family-controlled firms (Wan-Hussin, 2009). For instance, Sapura Energy Berhad's AGM had attracted worldwide view on how the top management survived the general meeting despite excessive directors' remuneration (MSWG Newsletter, 2016; The Malaysia Reserve, 2017)<sup>2</sup>. The mixed result happened because confidentiality and secrecy of the information were involved (Malaysia-ASEAN Corporate Governance Report, 2015; 2017; 2018). In comparison, voluntary disclosure such as AGM minutes on corporate websites is able to bring confidence to the existing and potential investors towards the companies' performance (Barako, Hancock & Izan, 2006; Sulaiman, Abdullah & Fatima, 2014).

Nevertheless, in the future, disclosure of the AGM minutes can provide new dimensions especially to the investors, on each firm's performance. In contrast, most of the Malaysian listed companies prefer to disclose their corporate information in order to

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<sup>2</sup>Annual general meeting (AGM) plays a key medium communication between management and shareholders as stipulated under Paragraph 2.3 of Securities Commission Corporate Governance Strategic Priorities (2017-2020) in promoting shareholders' activism (Securities Commission, 2020: p. 16).

fulfill the minimum requirements and only certain companies are willing to disclose full AGM minutes as they are still posited under voluntary disclosure.

Solomon (2007) argued that voluntary disclosure of information is highly supported by regulatory bodies, professional bodies, and statutory bodies in order to create a valuable creation of good governance (Solomon, 2007: p. 14). Without a doubt, extensive disclosures interchanges with good transparency, accountability, and sustainability (Cordery, 2005; Catusus & Johed, 2007; Karajeh, 2019; Louie, Ahmed, & Ji, 2019).

For this reason, this paper intends to examine the importance of AGM minutes on corporate websites of Malaysian listed companies by focusing on the financial year ended (FY) December 31, 2016. This paper only includes FY of December 31, 2016 after the transition period from Companies Act 1965 to Companies Act 2016 which became effective on January 31, 2017 onwards. By doing this, the researchers are also able to compare the reaction of Malaysian listed companies on the summary publication of key matters on corporate websites as highlighted in the Bursa Malaysia Listing Requirements on July 2016.

The remaining part of this paper is structured as follows: First, the researchers identify the collective reports by MSWG on voluntary disclosure between period 2012 to 2016, which comprise top 100 Malaysia listed companies and all listed companies. Second, the paper discusses on the role of AGM minutes as proof of documentation. Third, the relevant theories related to the AGM minutes are discussed and linked based on rational explanation. Next, the analysis of AGM minutes on corporate websites between 2016 to 2018 is reported. Finally, the paper ends with the conclusion and highlights the importance of AGM minutes on corporate websites.

## **LITERATURE REVIEW**

Based on Section 340(1) of Companies Act, 2016, all listed companies are physically required to hold AGM once in every calendar year. AGM acts as the medium of communication between a management and its stakeholders in order to seek for the shareholders' view and approval on the agenda of the general meeting (Security Commission of Malaysia, 2011). Thus, this paper provides an overview of the AGM

minutes' requirements, content and why it is important to disclose such information on corporate websites.

**(a) *AGM Requirements under the Malaysian Companies Act of the AGM's Minutes on Corporate Websites***

Currently, as compared to the previous Companies Act 1965, the updated Companies Act 2016 under Section 340 (1) is requiring every public company, listed or non-listed, to hold an AGM once in every calendar year besides the other meetings held during that period. One of the main factors involved is that, it is the public companies' duty to promote more companies doing businesses in Malaysia.

Generally, there are four main agendas in an AGM meeting that need to be discussed. First, it relates to the audited financial statements and the reports of the directors and auditors in accordance with the financial year ended. Second, it discusses the re-election of retiring director's appointment and fixing the directors' fee and remuneration as well as any other resolutions which notice is given in accordance with the Companies Act 2016 or the constitution (Companies Commission of Malaysia, 2016). By putting Bursa Malaysia Berhad's AGM minutes as a benchmark, it provides an example of corporate information, in conjunction with the Malaysia Code on Corporate Governance's recommendation.

The action of restricting public companies to hold their physical AGM meetings will promote and attract more investors in doing business with Malaysian companies. Besides, private companies are also given a choice to circulate their written resolution to pass any members' resolution or gather physical meeting of members in accordance with its constitution voluntarily. However, this scope will not be elaborated in this paper.

**(b) *AGM Requirements under the Revised Bursa Malaysia Listing Requirements of the AGM Minutes on Corporate Websites***

As mentioned in the earlier section, Bursa Malaysia Listing Requirements are always revised based the current situation. The updates of the listing requirements can be viewed in Chapter 9.21 Paragraph 2(b) from the Bursa Malaysia website<sup>3</sup>. Based on the

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<sup>3</sup>The details of the AGM Corporate Governance Checklist for Shareholders

updates on June 2016, this chapter echoes that every listed issuer must have its own website, as listed companies were required to produce (a) *all announcements made to Bursa Malaysia Securities Berhad as soon as practicable after they are released on Bursa Securities' website*, and (b) *a summary of the key matters discussed at the AGM after the conclusion of the meeting*. Therefore, the necessity for the AGM is pertinent as most of the top 100 listed companies have switched to their corporate websites for detailed additional information and to attract potential investors.

Meanwhile, according to Said and colleagues (2011), additional disclosure makes it possible for information on corporate websites to be disseminated to stakeholders (Said, Hariri, Haron, Zainuddin, Aras & Crowther, 2011: p. 178). Hence, this also shows that Malaysia is practicing low additional disclosure as compared to Singapore, Thailand and South Korea (Said *et al.*, 2011).

Interestingly, even though the need for AGM minute to be disclosed on corporate websites remains as voluntary in 2016, the exposure towards voluntary disclosure however, had been promoted by MSWG through the Malaysia-ASEAN Corporate Governance (CG) Report. Based on the report, minority of shareholders prefer to raise question during the general meeting (Malaysia-ASEAN CG Report 2017: p. 16). In fact, the report shows that 283 companies prefer the recorded questions and answers that are published on corporate websites. As such, Securities Commissions also issued a guidance note for PLCs on the conduct of virtual general meeting, especially during unforeseen circumstances (*See Appendix for further explanation*) (Securities Commission, 2020: p. 1-11-Guidance and FAQs on the Conduct of General Meetings for Listed Issuers).

### **(c) *Contents of the AGM Minutes on Corporate Websites***

Basically, there is no standard acceptance of general guidelines for AGM minutes in Malaysia. Due to this reason, Bursa Malaysia Securities Berhad, which is also known as the superior body for good governance has become a benchmark for all the Malaysian listed companies. For instance, the Bursa Malaysia provides the full disclosure of the venue, date and type of meeting on its AGM minutes' title. In addition, Bursa Malaysia also listed the participants at the general meeting, consisting of its board directorship,

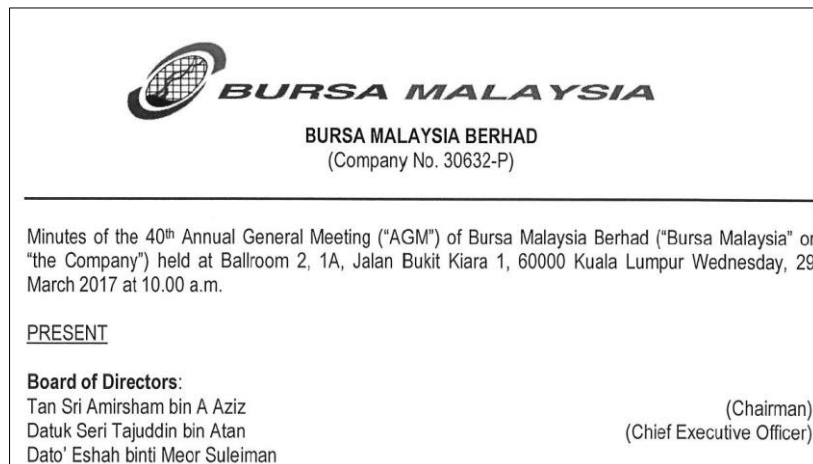
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can be retrieved from <https://www.sc.com.my/api/documentms/download.ashx?id=b59a0f5d-c414-4c27-b1c2-37ad15072d47>.

professional advisor (auditors, lawyers and company secretaries), management of the companies, and total shareholders of the meeting.

Meanwhile, the agenda of the AGM minutes comprises (a) tabled FY of the companies, (b) re-elect retiring directors, (c) approved directors' remuneration and (d) re-appointment of the auditors as stipulated under Companies Act 2016. The agenda of the meeting is very crucial especially for the investors who are unable to attend the general meeting. In fact, it also attracts potential investors to invest in those companies. More importantly, through the content of the AGM minutes, shareholders can review the issues raised at the meeting. This is really important for the shareholders to understand the company's current situation, to decide if they intend to maintain their contribution to the company's investment.

Below is an example of Bursa Malaysia's general meeting contents:



Furthermore, most of the AGM minutes also provide closing time for the meeting and chairman's signature in indicating the formalities of the meeting. Even though every AGM minutes of the companies has different arrangements of content, the agenda is mostly similar among listed companies.

**(d) *The Need for the AGM Minutes on Corporate Websites***

Prior studies reported that disclosure of financial and non-financial corporate information can enhance shareholders' value creation. In the context of voluntary disclosure, most of the Malaysian listed companies prefer to disclose their corporate information specifically related to determinants and decision usefulness (Wang & Hussainey, 2013). This study extends the works of Ghazali and Weetman (2006) and Hossain and Hammami's (2009) that encouraged future researchers to explore other aspects of voluntary disclosure that had not been previously debated and explored extensively (Ghazali & Weetman, 2006: p. 227; Hossain & Hammami, 2009: p. 255).

From the practical side, Simon Mort (1991) stressed that minutes or recorded information has served as concrete evidence of what had been discussed during the meeting, highlighted the main issues or action plan to be taken, and acted as the audit trail of action taken. In fact, Section 343(1) of the Companies Act 2016 has clearly mentioned that minutes are posited as evidence of resolution and can be used as proof of information in court proceedings (Corporate Governance Guide, 2017).

Meanwhile, from the regulatory side, Securities Commission, Institutional Investor Council Malaysia and MSWG had recently cooperate to publish AGM Corporate Governance Checklist for Shareholders on February 5, 2020. This publication is in line with the Corporate Governance Strategic Priorities (2017-2020) to protect minority shareholders (Securities Commission, 2020: p. 16)<sup>4</sup>. From the checklist, the highlight was during the pre-AGM meeting, at the AGM meeting, and the post-AGM meeting. As for this paper, the post-AGM meetings were explored in the attempt to answer these questions: *(a) have you read the key matters discussed at the corporate website? (b) do the key matters reflect the discussion and outcome of the meeting? and (c) are shareholders given accessibility and effective mechanism to communicate with the companies*<sup>4,5</sup>

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## ADOPTED REPORT BY MSWG ON VOLUNTARY DISCLOSURE BETWEEN 2012 AND 2016

Based on Table 1, the MSWG analysis shows the figure of the voluntary disclosure information among the top 100 Malaysian listed companies (PLC's) and all companies from 2013 to 2016 (Malaysia-ASEAN CG Report, 2016). As seen in the table below, generally, all voluntary disclosure items have increased over the years. In this paper, the main focus is directed towards the top 100 PLC's or all Malaysian listed companies that published their AGM minutes. Table 1 indicated that 48% top 100 PLCs were able to disclose full AGM minutes on their corporate websites. However, only 9% of all listed companies were willing to disclose their full AGM minutes on their corporate websites.

From 2017 onwards, most of the publications, memorandum and article of association (M&A), individual director remuneration, and annual financial report that were released within 4 months were excluded from the corporate websites due to mandatory requirements and they were considered irrelevant based on the Companies Act 2016. For example, M&A had been replaced with the constitution, and each individual director's remuneration should be included in brief and detailed into an annual report. In this paper, only the disclosures from 2013 to 2016 are explored.

Table 1: Table Extract of Minority Shareholder Watch Group between 2013 and 2016.

| Voluntary Disclosure                                  | 2016 (%)     |     | 2015 (%)     |     | 2014 (%)     |     | 2013 (%)     |     |
|---|--------------|-----|--------------|-----|--------------|-----|--------------|-----|
|   | Top 100 PLCs | All | Top 100 PLCs | All | Top 100 PLCs | All | Top 100 PLCs | All |
| Companies having Board Charter                        | 94           | 82  | 97           | 74  | 80           | 55  | 70           | 41  |
| Companies having a Code of Ethics                     | 90           | 57  | 77           | 48  | 68           | 34  | 57           | 26  |
| Companies that published AGM Minutes                  | 48           | 9   | 37           | 5   | 26           | 3   | 7            | 1   |
| Companies disclosing individual director remuneration | 43           | 10  | 33           | 9   | 35           | 8   | 39           | 9   |

Source: MSWG Media Release (2017).

By referring to the study done by Rita Bushon and Salleh Hassan (2016), the findings revealed that disclosure of the AGM minutes on corporate websites indicates a



good assessment for better corporate governance. In fact, the called made by MSWG for more disclosure of the AGM minutes had been responded positively by all the Malaysian listed companies. This is evident in a 2017 report where almost 37% of all listed companies had disclosed their AGM minutes on their corporate websites (Malaysia-ASEAN CG Report 2017: p. 17).

Furthermore, Rita (2016) also encouraged all listed companies to publish their AGM minutes on the corporate websites as early as possible after the conclusion of the meeting. Accordingly, each AGM minutes should be finalised, recorded and ready to be publicised on corporate websites within 30 days after the last meeting (Focus Malaysia, December 2016). This initiative has been strongly supported by regulatory bodies such as Bursa Malaysia Securities Berhad and Securities Commission of Malaysia in order to execute an active engagement between the company and the shareholders (Bursa Malaysia, 2018: p. 17).

### **AGM MINUTES: PROOF OF DOCUMENTATION?**

With Malaysia Institute of Corporate Governance's (MICG) initiative toward transparency and accountability among Malaysia PLCs, the strict regulations imposed by Bursa Malaysia Berhad Listing Requirements, the adoption of Malaysian Code on Corporate Governance 2017 and the revised Companies Act 2016 have resulted in voluntary disclosure of a clean corporate information sheet.

An AGM must be held within six months after the companies' financial year ended and selected among the popular financial year end (FY) either in June or December (Institutional Investor Council Malaysia, 2016). This paper focuses on the disclosure of AGMs' minutes held by the listed companies for the year FY that ended on December 2016. This period was selected following the implementation of Companies Act 2016 in 2017. Besides, December 2016 was the period that acted as the benchmark for all PLCs in publishing the AGM minutes on corporate websites after listing requirements had made it mandatory in July 2016.

In addition, the AGM minutes can be regarded as a forum for the chairman to exercise his leadership through an effective medium of interaction between management and ownership of the companies. The AGM provides a platform for the discussion of any agenda and ends with a decision to vote. Therefore, through the voting resolution, all

voting outcomes will be recorded and announced via Bursa Announcement on the “outcome of the meeting” section. Interestingly, certain listed companies also include the outcome of the meeting together in the AGM minutes for the purpose of making an easy reference for the shareholders. In the future, the shareholders will rely solely on the AGM minutes in order to review the agenda discussed from the previous meeting, including the number of resolutions passed and voting decisions made by shareholders (Securities Commission, 2012).

Moreover, previous research show that the trustworthiness of the documentation can be seen through a record of documentation (Cadbury, 1992). In fact, the AGM minutes can be used by the court as proof of documentation (Shackleton, Cordes & Caulfield, 2011). As such, the AGM minutes are capable of providing concrete evidence through the documentation of the prior general meeting. Through the AGM minutes, the court for instance, is able to conduct a series of reflective exercises on every discussion related to the division of ownership and the absolute ownership of the company in the event of dispute among directors.

## **APPROPRIATE THEORIES RELATED WITH AGM MINUTES ON CORPORATE WEBSITE**

To date, there are no specific theories related to AGM minutes’ disclosure on corporate websites. However, most traditional economic theories related to corporate governance involving management and shareholders are associated with Agency Theory and Signalling Theory. Agency Theory which was introduced by Jensen and Meckling (1976) elaborates the relationship between agent-principal whereby the agent must act on behalf of the shareholders as the owner of the company. If the agent (directors) resists in following shareholders’ (stakeholders) order, problems will arise, causing conflicts between directors and stakeholders. For instance, the disclosure of AGM minutes is voluntary, however, its publication on the corporate website will attract more investors, thus the directors’ ability in making appropriate decision-making will be tested.

Another theory related to the AGM minutes is derived from the Signalling Theory. This theory was proposed by Akerlof (1970) which measures the information on asymmetry problems among parties in the management (Levin, 2001). Besides that,

according to this theory, investors should be given a priority in fulfilling their stewardship in the company. As such, the stakeholders should be well equipped with the corporate information including the company's sensitive information.

Based on these two theories, both had endorsed the need for full cooperation between the directors and the shareholders of the company. AGM minutes act as the value creation that promote stewardship and mutual understanding between both parties involved namely directors and stakeholders of the company (Strenger, 2004). As a descriptive paper, this paper indirectly highlights the need of AGM minutes despite the availability of advance and sophisticated technology today.

Moreover, AGM minutes should be endorsed by the chairman and approved by the directors of the company, who act as agents to the company. The same goes to the shareholders as the owners of the company, and they should be given a priority in receiving previous AGM minutes for documentation purposes. Meanwhile, the directors and shareholders should be able to exercise their powers at the general meeting. By doing so, each party will obtain similar information on the general meeting affairs as well as the voting results (Bujaki & McConomy, 2002; Abdur Rouf, 2011; Lokman, Mula, & Cotter, 2014).

## MSWG ON COMPANIES THAT PUBLISHED AGM MINUTES FROM 2016 TO 2018

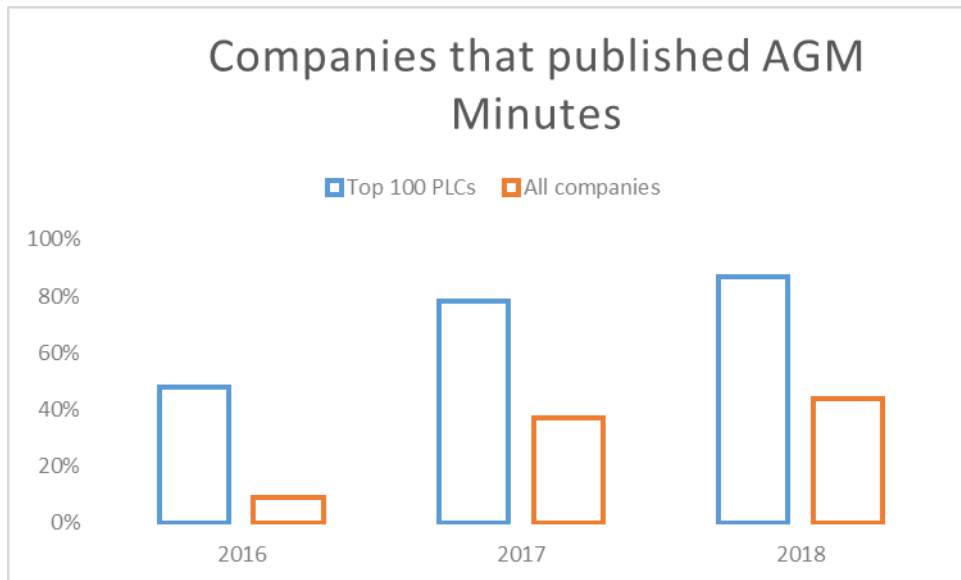


Figure 1: MSWG on Companies published AGM minutes from 2016 to 2018.

This descriptive paper also reports the trend of Malaysia PLCs and all companies that published their AGM minutes since 2016 to 2018 according to Malaysia-ASEAN CG Report in 2018. Generally, the movement towards disclosure of AGM minutes on corporate website increases over the years. Similarly, the top 100 PLCs had more than 50 percent disclosures in 2017 and 2018. In comparison, all listed companies achieved 48 percent by the year 2018.

The huge difference exists because top 100 PLC's under surveillance of the regulatory bodies were compared to all listed companies. Moreover, MSWG also placed their representative on each top 100 companies on behalf of minority shareholders' protection. Hence, the positive trends show that awareness towards AGM minutes disclosed on corporate websites had benefited all parties including the directors and stakeholders, thus promoting good governance practices.

## **QUESTION: ARE VIRTUAL SHAREHOLDERS' MEETINGS DURING AN UNPRECEDENTED SITUATION VITAL?**

In December 2019, the outbreak of the coronavirus disease (COVID-19) had affected more than 180 countries, thus forcing the implementation of the movement control order (MCO) in order to minimise the spread of the disease (World Health Organisation, 2020). The Malaysian Prime Minister on March 16, 2020, has declared that the entire country is under MCO starting March 18, 2020, which restricted the movement of the citizens and business sectors. Since then, many citizens have started working from home. As mentioned earlier, most of the PLCs FY are either June or December, and an AGM meeting must be held within the timeframe.

According to a statement of the Companies Commission of Malaysia (CCM), most of the CCM systems only operate after May 13, 2020. Thus, MSWG had voiced their concern on virtual shareholders' meetings because under the Companies Act 2016, PLCs cannot postpone their AGM in accordance with the annual report and financial statement reporting. Thus, MSWG encourages for an alternative solution through virtual shareholders' meetings to rectify the AGM meeting timeframe (Focus Malaysia, 2020-Virtual AGM: A necessary reality). This statement is supported by Securities Commission, whereby guidance on virtual meetings for listed companies had been issued on April 18, 2020.

Even though the guideline did not specify the minutes' requirements, every general meeting must be recorded and approved by the chairman as mentioned under Companies Act 2016. So, the AGM minutes on corporate websites serve as an effective mechanism for shareholders especially those who are unable to attend the general meeting. In addition, the AGM minutes must be produced as soon as the general meetings are held, even though debates on the consequences of virtual meeting are still on-going.

## **CONCLUSION**

Overall, AGM minutes are deemed important. Based on the ASEAN Corporate Governance Scorecard (2016), the corporate governance score trends for all the listed companies kept increasing over the years from 60.23% (2014), followed by 62.98% (2015) and 66.52% (2016). This trend approved the advocacy efforts by many in making

sure that the listed companies embrace the substance of corporate governance. From this paper, the need for the publication of AGM minutes becomes an important topic, especially for the shareholders. By making Bursa Malaysia Securities Berhad a role model, most of the top 100 PLCs are in the process of producing a better corporate governance landscape.

Despite highlighting the importance of disclosing AGM minutes on corporate websites, there were several limitations of this study. First, this paper only covers a descriptive overview of AGM minutes without specifying the areas of the study. The intention was to emphasize on the need for studies on AGM minutes, especially for future research. Secondly, this study has focused on the pre-adoption of the Companies Act 2016 and encourages for more studies on post adoption of the Companies Act 2016 so that more meaningful analysis can be conducted. Lastly, this paper brings the discussion on AGM minutes on corporate websites into another perspective, by involving the regulatory bodies, enforcement bodies, academician and the scholars.

This paper shows the outcome of a pioneer study that stresses on the importance of AGM minutes on corporate websites and how they can enhance the best practices of good governance. By employing descriptive analysis, this paper will benefit the regulatory, professional bodies and academicians by shedding some light on the future of AGM minutes, considering that many companies have started to employ webcast meetings.

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## APPENDIX

# SC ISSUES GUIDANCE ON VIRTUAL MEETINGS FOR LISTED ISSUERS

18 April 2020 | Kuala Lumpur

The Securities Commission Malaysia today issued a Guidance Note on the Conduct of General Meetings for Listed Issuers (Guidance Note) and stated that listed issuers shall only conduct fully virtual general meetings during the Movement Control Order (MCO) period.

For fully virtual general meetings, the Guidance Note states that there should not be more than eight essential individuals physically present at the broadcast venue, which includes the Chairperson of the general meeting, and may also be joined by the Chief Executive Officer, the Chief Financial Officer, the company secretary, the auditor and those providing audio-visual support. However, the SC stressed that listed issuers should try to conduct the fully virtual meeting with as few individuals present at the venue as possible. Those present must observe all social distancing guidelines.

"This guidance note is necessary to ensure companies can continue to meet their obligations under the law and to shareholders during this MCO period. We also encourage companies to continue leveraging technology, even beyond the MCO period, to conduct meetings in a manner that will encourage and enable full shareholder participation, even from remote locations," said Datuk Syed Zaid Albar, SC Chairman.

This is in line with Principle C (II) and Practice 12.3 of the Malaysian Code on Corporate Governance, where boards are encouraged to have effective, transparent and regular communication with shareholders including leveraging technology to promote shareholder participation.

Companies can submit an application to the SC for a time-limited travel exemption for the essential individuals to travel to the broadcast venue for the fully virtual meetings.

The SC also stated that hybrid general meetings, which involve multiple venues in different locations, shall only be conducted after the MCO period has ended, in order to adhere to the Government's directives to curb the spread of Covid 19.

The Guidance Note and the form to apply for the time-limited travel exemption can be downloaded from <https://www.sc.com.my/regulation/corporate-governance> and queries can be directed to [AGM@seccom.com.my](mailto:AGM@seccom.com.my).

**SECURITIES COMMISSION MALAYSIA**