

## GOVERNMENT PROPOSES MEASURES TO IMPROVE CORPORATE PRACTICES OF ANNUAL GENERAL MEETINGS

The Financial Services Commission (FSC) and the Ministry of Justice (MOJ) jointly proposed comprehensive measures to improve corporate practices of annual general meetings (AGMs) in an attempt to encourage the participation and engagement of shareholders.

### Background

AGMs serve as a company's highest decision-making body. However, the current practices in many companies – e.g. concentration of AGMs on specific dates<sup>1</sup> and fast-paced proceedings<sup>2</sup> – discourage shareholders' participation, making AGMs a mere formality. Shareholders' active participation in AGMs has become all the more important recently with the abolition of 'shadow voting' system<sup>3</sup> and growing public attention to the role of institutional investors as shareholders.

Against this backdrop, the proposed measures are intended to help companies boost participation of shareholders in AGMs and equip shareholders with more information to better exercise their voting rights.

### Measures proposed

#### 1. Companies to reach out to shareholders by e-mail

With shareholders' home addresses alone, companies have difficulty in contacting shareholders to notify the convocation of AGMs and encourage participation. To enable companies to reach out to their shareholders by e-mail, the FSC will allow listed companies to receive their shareholders' e-mail addresses from securities firms.

#### 2. Companies to be allowed to grant incentives to participants

Under the Commercial Act,<sup>4</sup> it is unclear whether companies are allowed to provide shareholders with a 'small gift' as an incentive for participation in AGMs. To clarify

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<sup>1</sup> AGMs are still highly concentrated on a few specific days: 57.8% of listed companies held their AGMs on the same three days, slightly lower than 70.6% in 2017 and 60.7% in 2018.

<sup>2</sup> The average time of an AGM was 31.1 minutes (2017). Moreover, it only took 10 to 20 minutes in 27% of companies.

<sup>3</sup> Under the 'shadow voting' system, listed companies were allowed to use shares registered with the Korea Securities Depository (KSD) so that they could easily meet quorums to pass resolutions at AGMs. The 'shadow voting' system was abolished in the end of 2017.

<sup>4</sup> Article 467-2 of the Commercial Act prohibits companies from granting "any person a pecuniary benefit in connection with the exercise of his/her rights as a shareholder."

this matter, the MOJ will provide an authoritative interpretation: For the purpose of increasing voting turnouts or securing quorums at AGMs, companies are allowed to grant participants a benefit at a level that does not breach social norms.

### 3. Convenience of electronic voting to be enhanced

The current requirement of the accredited certificate of authentication causes inconvenience to shareholders in electronic voting. Particularly, it hinders foreigners or overseas residents, who are not able to be issued the accredited certificate, from casting their votes through electronic voting. To enhance the convenience of electronic voting, shareholders will be allowed to use alternative means of identity verification - e.g. smart phone or credit card. Foreigners and overseas residents will be permitted to use their shareholder ID and password issued by companies.

More agencies including securities firms will be designated for the management of electronic voting<sup>5</sup> to make shareholders' exercise of voting rights by electronic means more accessible and convenient.

### 4. 'Empty voting' issue to be addressed

Currently, companies are required to close their list of shareholders within 90 days prior to an AGM to confirm shareholders who are entitled to vote at the AGMs. However, the three-month gap often resulted in 'empty voting', a situation where those who already sold their shares still remain on the list, having little incentive to exercise their voting rights as shareholders. To address the 'empty voting' issue, the MOJ will shorten the period between the closing date for shareholder list and an AGM to 60 days.

### 5. Business and audit reports to be attached to the notification of convocation.

Companies will be required to attach their business and audit reports to the notification of convocation in order to help shareholders better informed to exercise their voting rights at AGMs. Since the submission of business report are due "within 90 days of the closing of each business year,"<sup>6</sup> the requirement of business report attachment will also help reduce the concentration of AGMs in the end of March, splitting the dates over April to May.

### 6. More information on executive candidates available to shareholders

Companies will be required to provide shareholders with more detailed information about executive candidates – e.g. a record of his/her entire career, a work plan by candidates for non-executive directors, and reasons for recommendation of candidates by the board of directors.

### 7. Actual amount of remuneration paid to directors to be disclosed

In an attachment to the notification of convocation, companies will be required to disclose the actual amount of remuneration paid to directors in the previous year.

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<sup>5</sup> As of April 2019, only two agencies – KSD and Mirae Asset Daewoo – have been designated for the management of electronic voting.

<sup>6</sup> Under Article 159 of the Capital Market Act, companies are required to submit their business report to the FSC within 90 days of the closing of each business year.

That will enable shareholders to make more informed decision on the appropriateness of remuneration in relation to the performance of directors.

#### 8. The period for notification of convocation to be extended

The period for notification of convocation, currently two weeks, will be extended to four weeks before an AGM, which will give shareholders more time to review items on the AGM agenda.

#### 9. Dates of AGMs to be allocated on a first-come, first-serve basis

To address the concentration of AGMs, the FSC will introduce a new clause in the Capital Markets Act that limits the number of companies to hold an AGM over a certain period of time – e.g. a certain date or a certain week. Dates will be allocated upon their application for potential dates on a first-come, first-serve basis.

### Implementation plan

Measures proposed	Implementation plan	gov't body in charge
1. Companies to reach out to shareholders by e-mail	Amendment to the Capital Markets Act in 2019	FSC
2. Companies to be allowed to grant incentives to participants	Authoritative interpretation of the Commercial Act in the first half of 2019	MOJ
3. Convenience of electronic voting to be enhanced	Pre-announcement of the amendment to the Enforcement Decree of the Commercial Act in the first half of 2019	MOJ
4. 'Empty voting' issue to be addressed	Bill to amend the Commercial Act under discussion at the National Assembly	MOJ
5. Business and audit reports to be attached to the notification of convocation	Pre-announcement of the amendment to the Enforcement Decree of the Commercial Act in the first half of 2019	MOJ
6. More information on executive candidates available to shareholders	Pre-announcement of the amendment to the Regulation on Issuance, Public Disclosure, etc. of Securities in the first half of 2019	FSC
7. Actual amount of remuneration paid to directors to be disclosed	Pre-announcement of the amendment to the Regulation on Issuance, Public Disclosure, etc. of Securities in the first half of 2019	FSC
8. The period for notification of convocation to be extended	Bill to amend the Commercial Act under discussion at the National Assembly	MOJ
9. Dates of AGMs to be allocated on a first-come, first-serve basis	Amendment to the Capital Markets Act in 2019	FSC