

Book closure period for shareholders' meetings

Book closure period has become a hot topic after some listed issuers received a *Reminder on the Requirements and Guides on Shareholders' Meetings* dated 1 Mar 2017 (the "HKSCC Reminder") from Hong Kong Securities Clearing Company Limited ("HKSCC").

In the HKSCC Reminder, it states in bold "..... a record date or last share registration date to determine shareholders' voting rights is required to be set and announced for each shareholder meeting and such date must be set at least four business days before the meeting date. Please also ensure proxy form submission deadline should not be set before the record date."

To help clarify the points raised in the HKSCC Reminder, relevant extracts of the guidelines are appended below for your easy reference.

What is a last share registration date?

"Last share registration date", to rephrase that, is the last date for lodging transfer documents for registration with the registrar before book closure.

Section 4.2.4 of the *Guide to Eligibility and Admission of Securities to the Central Clearing and Settlement System* (http://www.hkex.com.hk/eng/prod/clr/sec_clrsett/dns_services/documents/ccass%20guide%20mar%202017.pdf) states:

"4.2.4 Last share registration date

Issuers are required to fix a last share registration date to determine shareholders' and/ or warrant holders' voting rights for each shareholders' and/ or warrant holders' meeting. Such last share registration date must be at least four business days before the meeting date and clearly stated in the notice of meeting to shareholders and/ or warrant holders. This will enable HKSCC and/ or the Common Nominee to communicate with CCASS participants for the purpose of recognizing their rights to take part in corporate actions."

What is a record date?

Most listed issuers adopt a book closure period of 3 business days (current market practice) and choose the last book closing date as record date pursuant to section 3.3 of the *Guide on Disclosure of Record Date, Book Closure and Latest Time for Lodging Transfers of Shares* published by HKEX (http://www.hkex.com.hk/eng/rulesreg/listrules/guideref/documents/e_bk_close.pdf):

"3.3 Book closure timing information: Each time an issuer decides to close its books temporarily for a planned corporate action, it is good practice for it to provide the

following book closure timing information in its announcement/circular:

- i. *Record date:* The issuer must provide the record date on which it will identify its shareholders based on the names appearing on its books. If the corporate action requires approval by shareholders in general meeting or is contingent on a transaction that is subject to approval by shareholders in general meeting, the record date on which the issuer will identify shareholders who will be entitled to attend and vote at the general meeting must also be provided.¹ If there is a book closure period, the record date can fall on any day during the period but it normally falls on the last book closing date. The issuer usually determines the identity of qualified shareholders at the close of the business day. If it is otherwise, the issuer should specify the Hong Kong time at which the snapshot of shareholder records will be taken in the form of “*hh:mm on dd/mm/yyyy*”.

HKSCC has not defined “record date” in the HKSCC Reminder but has referred to section 3.3 of the *Guide on General Meetings* published by HKEX (http://www.hkex.com.hk/eng/rulesreg/listrules/guideref/documents/gm_guide.pdf):

“3.3 Voting record date: To facilitate the processing of proxy voting, it is good practice to announce a record date on which the issuer will identify shareholders who will be entitled to attend and vote at the general meeting. Issuers should provide the latest time for share transfer and registration that must be met in order to be registered as a shareholder on the voting record date and thus able to vote at the general meeting.”

Unlike the HKSCC Reminder, none of the above guidelines had suggested that the record date should be set at least four business days before the meeting date.

In response to enquiries from listed issuers, HKSCC issued a *Clarification on “Reminder on the Requirements and Guides on Shareholders’ Meetings”* on 3 April 2017 to highlight the refined requirement in italic and double underlined, “.....Please also ensure **proxy form submission deadline should not be set before the record date *or last share registration date (as the case may be)***.”

While it is still unclear how HKSCC defines “record date”, the importance that the proxy form submission deadline should not be set before the last share registration date is emphasized.

Recommendation

The Listing Rules and the HKEX published guidelines do not mandate a specific length on book closure period for listed issuers. HKSCC requires the last share registration date must be set at least four business days before the meeting date. For administrative convenience, we would recommend a book closure period of four business days

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including the meeting date.

An illustrative example:

Monday	Tuesday	Wednesday	Thursday	Friday
last share registration date / last date for lodging transfer documents for registration (4 business days before meeting date)		proxy form submission deadline (usually 48 hrs before meeting date)		meeting date record date (can fall on any day during the book closure period)

←----- book closure period of 4 business days -----→

*assuming all are business days

**not applicable for H-share listed issuers

Please be reminded that there maybe other requirements imposed by the company's constitutional documents, company law and other regulations of the jurisdiction in which the company is incorporated. For example, H-shares listed issuers are required to close their books for 30 days prior to the date of a shareholders' meeting. Therefore, listed issuers should consult their professional advisers in case of doubt.

By **Maria Kwan** 4 May 2017

References:

1. *Guide on Disclosure of Record Date, Book Closure and Latest Time for Lodging Transfers of Shares* published by HKEX (http://www.hkex.com.hk/eng/rulesreg/listrules/quidref/documents/e_bk_close.pdf)
2. *Guide on General Meetings* published by HKEX (http://www.hkex.com.hk/eng/rulesreg/listrules/quidref/documents/gm_guide.pdf)
3. *Guide to Eligibility and Admission of Securities to the Central Clearing and Settlement System* (http://www.hkex.com.hk/eng/prod/clr/sec_clrsett/dns_services/documents/ccass%20guide%20mar%202017.pdf)
4. *Reminder on the Requirements and Guides on Shareholders' Meetings* dated 1 March 2017 issued by Hong Kong Securities Clearing Company Limited
5. *Clarification on "Reminder on the Requirements and Guides on Shareholders' Meetings"* dated 3 April 2017 issued by Hong Kong Securities Clearing Company Limited

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