



# *A Guide for the Shareholder in General Assemblies of Listed Companies in the Saudi Capital Market*





The Capital Market Authority would like to point out that this manual is indicative only. It is not a replacement to any related regulations or instructions. It is not, by any chance, considered as a reference to any procedures or legal responsibilities arising from related parties.

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## *Introduction*

The Capital Market Authority seeks to accomplish positive interaction between shareholders and companies in what will serve the public interest. Based on the belief that general assemblies are important, CMA has published this manual that seeks to activate the shareholders' role in general assemblies in addition to raise their awareness in corporate governance of listed companies.

The general assembly is the link between a company's shareholders and its board of directors. It takes care of discussing the topics that requires shareholders' approval and make its decisions based on that. Thus, shareholders' attendance and their effective participation in the general assembly supports the company's position in the capital market, raises its performance and encourages the elected board members who were elected by the shareholders.

Note: this manual was published in cooperation with the Ministry of Commerce and Industry- General Management of Companies.

## General Assemblies

The company's board invites shareholders to attend the general assembly. That is to discuss topics that are related to the company, exchange ideas, give suggestions and listen to them, emphasize the position of the company and future challenges. As a result, effective interaction by the shareholders would activate the roles that aim to complete and enrich the relationship between the company's management, its owners and all the concerned parties.

Although there are different jurisdictions in general assemblies, every shareholder, who owns 20 shares, has the right to attend the general assembly even if the company's law dictate differently. The shareholder can assign, in writing, another shareholder who is not a member of the board of directors to attend the general assembly. General assemblies can be divided according to the topics discussed in the agenda as following:

- Constituent assembly
- Extraordinary general assembly
- Ordinary general assembly

### Constituent Assembly

Each subscriber, regardless of the number of shares he owns, has the right to attend the Constituent Assembly.

### The Constituent Assembly Jurisdictions

The constituent assembly specializes in looking into several subjects such as:

- Verifying all the capital subscription and its fulfillment in accordance with the provisions of the corporate law with minimal Capital and the deserved amount of the stock value.
- Stating the final versions of the company's law. The assembly is not allowed to introduce substantial modifications on the proposed law unless all the representative subscribers approve.
- Assigning the members of the first board of directors for a period not exceeding five years as well as the first certified public accountant if they were not assigned in the company's contract or law.
- Deliberation of the founders' report about the businesses and expenses originated by establishing the company.

### Extraordinary General Assembly

The extraordinary general assembly is convened at any time during the year whenever the need arises.

### The Extraordinary General Assembly Jurisdictions

The extraordinary general assembly specializes in looking into the following:

- Approval of the raise or reduction of the company's capital.

- Any topic related to amending the company's law with the exception of the following matters:
  - The amendments that could deprive the shareholder his basic rights that comes with being a partner in the company.
  - The amendments that could increase the financial burden on the shareholders.
  - Amend the company's objective.
  - Transfer the company's headquarters from the kingdom to a foreign country.
  - Amend the company's nationality.

In addition, the extraordinary general assembly can issue resolutions in matters within the ordinary general assembly's jurisdiction. It would apply the same restrictions and conditions of the ordinary general assembly.

### *The Ordinary General Assembly*

The ordinary general assembly is convened at least once a year during the first six months after the end of the company's fiscal year. It is acceptable to call for other ordinary general assemblies whenever it is needed. General assemblies are convened by a request from the board of directors. The board should assemble the meeting if it was requested by the certified public accountant or a number of the shareholders whose ownership exceeds at least 5 % of the capital.

The General Management of Companies at the Ministry of Commerce and Industry, based on a

request by a number of the shareholders who represent 2 % of the capital in the least or based on a decision by the minister of industry and commerce, can ask the general assembly to hold a meeting if a month has passed since the specified date to assemble without meeting.

### *The Ordinary General Assembly Jurisdiction*

The Ordinary General Assembly looks into all the matters related to the company with the exception of the matters that come under the extraordinary general assembly jurisdiction. Examples of the jurisdictions but not limited to:

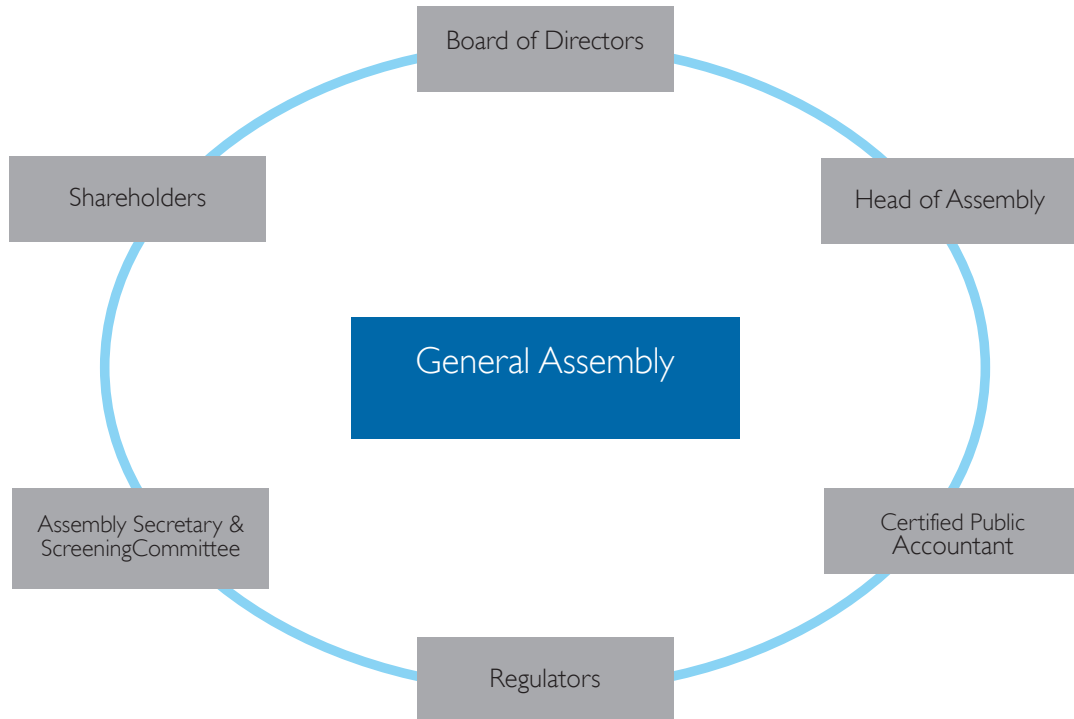
- Appointing members of the board of directors.
- Adopting of the proposed dividend and the date of distribution.
- The assembly's approval on the board of directors report.

## Assemblies Timing and Quorum

	Constituent Assembly	Ordinary General Assembly	Extraordinary General Assembly
Who calls for a meeting	Founders	Board of Directors	Board of Directors
Time	Convened according to what is stated in the company's law.	convened at least once a year during the first six months after the end of the company's fiscal year or whenever needed	Whenever needed
Date	The period between the invitation and convention dates must not be less than 15 days	The date should be announced 25 days before the assembly's convention date.	The date should be announced 25 days before the assembly's convention date.
Quorum of the meeting	The attendance of a number of the shareholders that represent at least 50% of the capital	The attendance of a number of the shareholders that represent at least 50% of the capital unless the company's law states a higher percentage	The attendance of a number of the shareholders that represent at least 50% of the capital unless the company's law states a higher percentage
In case the quorum wasn't complete (hold a second assembly meeting)	Another meeting is convened after at least 15 days from sending the invitations.	During 30 days from the previous meeting	During 30 days from the previous meeting
Quorum of the second meeting	The attendance in any percentage	The attendance in any percentage	At least 25% of the capital



## *The Basic Elements of the General Assemblies and the Role of Each One*



### *The Board of Directors*

The board of directors calls to convene an ordinary general assembly at least once a year. That is during the first six months after the fiscal year ends or if there was a request to convene the assembly. The board's major responsibilities in the assembly are:

- Declare the time and place where the general assembly is convened as well as its agenda, at least 25 days before the actual date.
- Announce the invitation on the Tadawul website and the company's official website in addition to the official newspaper and two widely known newspapers in the kingdom.
- Facilitate the participation of shareholders in the general assembly meeting and choose the best time and place for that.
- Verify that all the topics discussed in the general assembly are accompanied with enough detailed information that would help the shareholders in making their decisions. Information and data should be presented well before the meeting such as:
  - Board of director's report and financial statements: the company should announce the board of directors' report and the annual financial statements once they are approved in a duration not exceeding 40 days since the end of the annual financial period mentioned in those statements. The company should announce the board of directors' report and the annual financial statements in a period not less

than 25 days before the annual convention date of the general assembly.

- State the items that include benefits for the related parties and explain this relationship.
- Inform the shareholders with the meeting rules and the voting procedures adopted by the company and explain them.
- Inform the market with the assembly's results as soon as it is complete
- Provide the appropriate regulatory authorities with a copy of the meeting minutes within ten days since it was convened, as well as provide the shareholders the opportunity to access the minutes.

### *The President of the Assembly*

The president manages and supervises the assembly meeting. His most prominent functions are:

- Starting the assembly and announcing the number of shares represented in the meeting, attendance percentage, explaining the procedures and the voting mechanism for shareholders.
- Announcing the required quorum for the assembly to be convened, in addition to declaring if the quorum was complete or not.
- Obtaining the shareholders' approval on nominating the assembly's secretary and the screening committee (votes).
- Reading the items of the assembly's agenda and review some of them briefly such as the

board of directors report.

- The chairman of the board of directors should inform the ordinary general assembly, when convened, of the businesses and contracts that a member of the board of directors has a personal interest in. This should be attached with a special report from the certified public accountant.
- Dealing with the shareholders' inquiries professionally within the confidence granted to the board by the shareholders.
- Asking the shareholders to vote on the items of the agenda.
- Asking the votes collector to collect the ballots and sort them out.
- Reading the voting results and approve the meeting minutes. The minutes should be written after every meeting on a regular basis. It should be signed by the assembly's president, its secretary and the votes collector.

### *Common Mistakes*

- Demanding a vote from the president of the assembly before discussing the items on hand.
- Reading all the meeting's items without giving a chance for discussion.
- Failing to announce the quorum especially in the second meeting.
- Announcing and declaring any news or significant events related to the company without announcing it on the Tadawul website.
- A member's participation in some of the items where he/she is not allowed to participate in such as: exoneration or voting on an item of interest.
- Asking the president of the assembly to contact the company to get the information alone.

### *The Certified Public Accountant*

A certified public accountant is called to be present when the assembly includes an item related to adopting the financial statements and approving them. The roles in which he is responsible are:

- An overview on the company's financial position based on its financial statements and reading it to the shareholders.
- Prepare a special report in case there was a personal interest for one of the board members in the businesses and contracts related to the company. This report is attached to the report sent to the president of the general assembly.
- Answer all the shareholders' questions regarding the financial statements in an amount that will not damage the company.
- Presents a report to the annual ordinary general assembly that includes the following:
  - The company's management attitude towards giving him the data and explanations requested.
  - Violations discovered.
  - His opinion on the similarity of the company's accounts to reality.

If the assembly decided to ratify the board of directors' report without listening to the report of the certified public accountant, the decision therefore is null.

### *The Assembly's Secretary and the Screening Committee*

Traditionally, the president of the assembly nominates the secretary and screening committee. The shareholder is entitled to nominate himself as a secretary to the assembly or as a member of the screening committee. Some of their functions are:

- Documenting the discussion in the meeting minutes.
- The screening committee collects the ballots, sorts them out and makes sure the ownership of the shares are based on the attendance log.
- Preparing the final minutes and signing it by the president of the assembly, secretary and the votes collector.

### *The Shareholders*

- Shareholders are allowed to actively participate and vote in the assembly meetings.
- It is a shareholder's fundamental right to vote. It cannot be revoked in any way.
- A shareholder can assign, in writing, another shareholder who is not a member of the board of directors or one of the company's employees to attend the general assembly.
- Shareholders who own at least 5% of the company's shares can add a topic or more to the assembly's agenda when it is prepared.
- A shareholder has the right to discuss the topics listed in the agenda and ask questions related to them to the members of the

board and the certified public accountant in an amount that does not harm the company. If the shareholder felt that the answer to his question is not satisfactory, he can defer to the assembly which its decision would be enforced.

- A shareholder has the right to nominate himself to be a member of the board once he meets the conditions that qualify for this membership.
- A shareholder has the right to have a look on the meeting minutes.
- A shareholder has the right to get the information that enables him to practice his rights in the company fairly and without any discrimination between the shareholders regardless of their ownership percentage or their voting in the assembly.

#### *Common Mistakes*

- Discussing topics that are not on the agenda such as inquiring about the first quarter's result before it is announced.
- Lack of commitment by shareholders regarding the assemblies dates which leads to lack of participation in the voting.

#### *The Regulators*

Representatives of the regulating authorities should do the following:

- Making sure that the related rules and regulations are not violated.
- Monitor all the notes during the meeting.

## *General Assemblies Working Mechanisms*

#### *Voting*

Voting is considered the essential foundation that enables the shareholders to obtain their rights and participate in the deliberations and decision making in the general assemblies. Voting to elect the board members has two methods:

Voting	Statutory Voting	Cumulative Voting
Voting Mechanism	The shareholder votes on the number of candidates according to the shares he/she owns without looking into the distribution of shares on the candidates.	Each shareholder is granted a voting capacity according to the shares he/she owns. He/she has the right to vote for one candidate or distribute his voting on his choice of candidates without any repetition.
Notes	This method reduces the chance for the minority shareholders to have a representative on behalf of them in the board.	This method increases the chance for the minority shareholders to have a representative on behalf of them in the board by concentrating the cumulative votes on one candidate.

Example: if a company has (3 seats) available in the board of directors for voting, then each investor can vote as the following:

- Investor (A) owns 350,000 shares
- Investor (B) owns 120,000 shares

The Candidate	Statutory Voting		Cumulative Voting	
	Investor (A)	Investor (B)	Investor (A)	Investor (B)
1st	350,000		110,000	
2nd		120,000		120,000
3rd	350,000		120,000	
4th				
5th	350,000		120,000	
6th				

It can be noticed that investor (B) couldn't assign a representative on behalf of him at the board of directors during the statutory voting. Whereas he was able to do that during the cumulative voting by focusing all his shares on the second candidate.

### *Mechanism to Elect Members of the Board of Directors*

The board of directors is elected during the ordinary general assembly. It is assigned for a period not exceeding 3 years except the first board where the members are elected for a period not exceeding five years. The company should announce and open the nominations to candidates who wish to nominate themselves in sufficient time to enable them to provide the company with their CVs.

### *e-voting*

The e-voting mechanism aims to facilitate the shareholders' participation in the general assembly meeting in addition to raising the efficiency and effectiveness of these meetings. This mechanism would help in overcoming the obstacles that may prevent the shareholders from participating in the assembly. Furthermore, it facilitates the assemblies convening. The shareholder can exercise the right to vote and participate without the need to be present at the assembly's venue.

### *Cases of Conflict of Interest in General Assemblies*

- Any member of the board is not allowed without an authorization by the general as-

sembly that is annually renewed- to have any interest (direct or indirect) in the businesses and contracts done for the company. Businesses done by general bidding is excluded from that if the member of the board was the one with the best offer.

- The board member should inform it if there was a personal interest in the businesses and contracts done for the company. This report should be noted in the meeting minutes. The member in relation to this cannot participate in the voting on this decision by the general assembly or in the board of directors meeting.
- The chairman should inform the general assembly when its convened about the businesses and contracts that one member of the board has a personal interest in them. This should be accompanied by a special report from the certified public accountant.
- Before the assembly is convened, sufficient information should be delivered to the shareholders in relation to this contract such as:
  1. The name of the beneficial related party.
  2. The contract's nature and conditions.
  3. Contract value.
  4. Contract duration.

## *How could the shareholder participate effectively in the general assembly?*

A shareholder has an important role in the general assembly by participating and voting on the decisions presented to the assembly. Thus, the shareholder's participation should be more effective through:

- The appropriate preparation to attend and participate in the assembly by reading the board of directors' report and the company's financial statements before attending the assembly.
- Take a look at the agenda before the meeting and study the items listed and the available information.
- Benefit from the opportunities available for discussion by asking questions that does not damage the company's reputation.
- Full knowledge of his rights by knowing the shareholders general rights in the related rules and regulations.

## *Common Mistakes in Assemblies*

Some of the common mistakes in general assemblies are:

- Some companies delay announcing the assemblies where they announce the convening assembly in a period less than twenty five days.
- Lack of available information regarding the agenda items which might affect the shareholders' decisions.
- Not all the items presented to shareholders are discussed but only those mentioned on the voting cards. This would lead to a lack of, and limited, information.
- The president of the assembly might ask to postpone discussing the items of the meeting until the voting cards are collected and counted. This means that the shareholders might take their decisions based on incorrect or insufficient information because they weren't allowed to discuss each item separately before voting.
- The items of the meeting are not sufficiently or adequately reviewed.
- Board members participate in the voting on the "liability discharge" for the period of their management.
- Discuss items that are not originally listed on the agenda.
- Some companies ask the certified public accountant to answer the shareholders' in-



quiries that are not related to the financial statements.







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