

PLMJ

SOCIEDADE DE ADVOGADOS, RL

A.M.PEREIRA, SÁRAGGA LEAL, OLIVEIRA MARTINS, JÚDICE  
E ASSOCIADOS

# GENERAL MEETINGS' GUIDE LISTED COMPANIES



BANKING&FINANCE AND CAPITAL MARKETS  
PRACTICE AREA



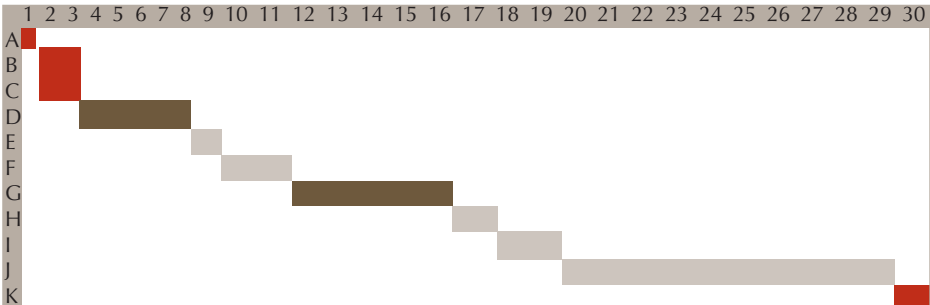
## GENERAL MEETINGS' GUIDE LISTED COMPANIES<sup>1</sup>

### 1. NOTICE OF GENERAL MEETING (GM)

#### 1.1. Deadline

- Between the disclosure of the GM notice and the date of the meeting a minimum 21 days' period must be observed.
- However, a longer period should be considered, bearing in mind (i) the period usually necessary to the publications in the website of the Justice Ministry and (ii) the legal deadlines for the inclusion of items in the agenda and the submission of proposals.

#### 1.2. Timeline



**A** Submission of the GM notice for publication

**B** Publication / disclosure of the GM notice

**C** Disclosure of the mandatory previous information

**D** Deadline for including new items and corresponding proposals

**E** Submission of the amended GM notice for publication

**F** Publication / disclosure of the GM amended notice

**G** Deadline for the disclosure of proposals by the shareholders

**H** Submission of the proposals referred to in G. for publication

**I** Publication / disclosure of the proposals referred to in G.

**J** Minimum period between I. and K.

**K** GM

<sup>1</sup> This guide only analyses the rules and legal provisions applicable to the companies with shares admitted to trading on a regulated market ("Listed Companies"). Therefore, some of the provisions/rules mentioned herein are not applicable to private companies, nor to public companies whose shares are not admitted to trading.



### 1.3. Contents

The GM notice should include the following:

- The corporate name, type of company, registered office, commercial registry office, corporate number and share capital;
- The place, date and time of the GM;
- The type of GM (ordinary or extraordinary);
- The requirements to attend and vote;
- The agenda;
- The explanation of the procedures to vote by correspondence;
- The procedures to participate in the GM, including, *inter alia*, the Record Date (as defined below);
- The necessary procedures to exercise the rights of including items in the agenda, submitting proposals and requesting information in the GM;
- The procedure to be followed by the shareholders in order to be represented in the GM;
- The place where the representation letter form is available;
- The place where and manner by which the documents and resolution proposals to be submitted to the GM may be obtained.



## 2. GM PREPARATORY INFORMATION

In the date of disclosure of the GM notice, the following should be provided to the shareholders in the company's registered office and in its website (where it should be kept for 1 year):

- The complete names of the members of the managing and supervision bodies, as well as the board of the general meeting;
- Other companies in which the members of the corporate bodies are in office (except professional companies);
- The resolution proposals to be submitted to the GM by the managing board, as well as its reports or justification;
- Should the GM be elective:
  - The names of the individuals to be proposed and their curricula and professional activities performed in the last 5 years;
  - The number of shares of the company held;
- Should it be an annual GM:
  - The managing report and accounts (including, the corporate governance report);
  - Other documents regarding the company's accounts, including the legal certification of the accounts and the opinion of the supervisory body;
- The GM notice;
- The total number of shares and voting rights in the date of the disclosure of the GM notice, including the total amounts segregated by each category of shares, if applicable;
- The forms of the letter representation and correspondence vote documents; and
- Further documents to be submitted to the GM.



### 3. NOTICE, AGENDA AND PROPOSALS

<p>GENERAL MEETING NOTICE</p> <p>AND</p> <p>INCLUSION OF NEW ITEMS IN THE AGENDA</p>	<ul style="list-style-type: none"> <li>- The shareholders that, jointly or individually, hold shares corresponding to at least <b>2%</b> of the share capital may request the convocation of a GM and the inclusion of new items in the agenda.</li> <li>- The above mentioned request (i) should be submitted, in writing, to the Chairman of the GM Board, (ii) <b>within 5 days following the publication of the GM notice</b> and (iii) include the resolution proposals for each matter.</li> <li>- The new items included in the agenda and the corresponding proposals, must be disclosed by the same means as those used for disclosing the GM notice, as soon as possible, and in any case until the <b>Record Date</b>, as defined below.</li> </ul>
<p>SUBMISSION OF PROPOSALS</p>	<ul style="list-style-type: none"> <li>- The shareholders that jointly or individually hold shares corresponding to at least <b>2%</b> of the share capital may request the inclusion of resolution proposals regarding items already included in the agenda.</li> <li>- The above mentioned request (i) should be submitted, in writing, to the Chairman of the GM Board, (ii) <b>within 5 days following the publication of the GM notice</b> and (iii) include all the information to be submitted together with the proposal.</li> <li>- The resolution proposals and all the respective information must be disclosed by the same means as those used to disclose the GM notice, as soon as possible, and in any case <b>until 10 days before the GM date</b>.</li> <li>- Since all shareholders allowed to participate in the GM may discuss and vote, the law is still unclear with respect to the following (to be decided by the Chairman of the board of the GM): May the shareholders submit proposals in the GM? Is it a requirement to hold 2% of the share capital for this purpose?</li> <li>- Therefore, if on one hand the right to submit proposals seems to be a right of any shareholder, which is not detachable of the right to discuss in the GM, on the other hand admitting proposals in GM may prejudice the shareholders that vote by correspondence or that granted instructions to their representatives.</li> <li>- These issues should be clarified so as to avoid future lawsuits and different interpretations by the companies.</li> </ul>



## 4. PARTICIPATION, VOTING AND REPRESENTATION IN THE GM

### 4.1. Participation and Voting in the GM<sup>2</sup>

RECORD DATE	<ul style="list-style-type: none"><li>- The shareholder may attend the GM if at <b>0h of the 5th negotiation</b> day prior to the GM (“Record Date”) he holds shares attributing to him at least 1 vote.</li><li>- Such right is not prejudiced by the transfer of the shares after the Record Date nor depends on its blockage.</li></ul>
RIGHT TO VOTE IN THE GM	<ul style="list-style-type: none"><li>- The shareholder who intends to participate in the GM must declare it, in writing, until the <b>23h59m of the day prior to the Record Date</b>: (i) to the Chairman of the GM Board and (ii) to the Financial Intermediary (“FI”) with which the account of the individualised registry is opened<sup>3</sup>.</li><li>- In addition, the FI must submit to the Chairman of the GM Board, <b>until the 23h59m of the Record Date</b>, the number of shares registered in the name of its client on that date.</li><li>- In both cases, such statements may be submitted by email.</li><li>- According to the CMVM Recommendations the Chairman of the GM Board may chose to receive only one statement from the FI as long as long as (i) it complies with the Record Date principles as per above; (ii) the procedure is general and not discriminatory and (iii) this option is included in the GM notice.</li><li>- The shareholders who have declared their intention to attend the GM and transfer their shares between the Record Date and the end of the GM must notify such fact to the Chairman of the GM Board and to CMVM.</li></ul>

<sup>2</sup> On 22.02.2011, CMVM disclosed the “CMVM Recommendations on the New Regime to participate in the General Meetings of the Public Companies with Shares Admitted to Trading on a Regulated Market” available at <http://www.google.pt/search?hl=pt-PT&source=hp&q=elective+general+meeting&aq=f&aql=&oq=> (“CMVM Recommendations”). In the referred recommendations, CMVM expressly states that it is considering issuing specific regulation on these matters further to the annual ordinary general meetings.

<sup>3</sup> According to CMVM Recommendations, should the content of the statements sent to the Chairman of the GM Board and to the FI diverge, the latter must prevail, except if the same contains errors or insufficiencies. CMVM recommends also that the FI statement is submitted in the form of an electronic list, including the taxpayer number and the position of its clients that have declared their intention to participate in the GM.



<p>ACTING ON BEHALF OF A THIRD PARTY</p>	<ul style="list-style-type: none"> <li>- The shareholders that on a professional basis hold shares in its own name but on behalf of third parties may cast votes differentially with its shares.</li> <li>- For such purpose, they should submit to the Chairman of the GM Board <b>until the 23h59m of the day prior to the Record Date</b>, (i) the identification of each client and the corresponding number of shares and (ii) the specific voting instructions regarding each one of the items of the agenda provided by each one of its clients.</li> <li>- Pursuant to the CMVM Recommendations, the Chairman of the GM Board may consider that a responsibility statement of the professional shareholder in which it confirms the receipt of specific voting instructions for each item of the agenda from each client is a sufficient and proportional proof of the abovementioned elements in (i) and (ii).</li> </ul>
--	--

#### 4.2. Timeline

	1 2 3 4 5 6 7	
A		A - Submission of the shareholder statement until 23h59m.
B		B - Registry day (0h); submission of the statement of the FI until 23h59m.
C		C - Minimum period between the Record Date and the GM.
D		D - GM.

#### 4.3. Representation

- Currently the appointment of different representatives for securities held in different accounts is permitted.
- The representation document may be delivered to the Chairman of the GM Board by email, within the maximum deadline provided for in paragraph 3 of art. 378 of the Portuguese Companies Code: 10 / 5 days prior to the date of the GM, depending on the latter being noticed by publication or by registered letter.
- In spite of the law being unclear, we consider that one should follow the solution which is more favorable to the shareholders' participation in the GM, i.e., the representation document must be submitted within the deadline provided for in the GM notice, which must not exceed the 5 days prior to the GM.



- According to CMVM Recommendations, there is no apparent reason for the deadline to send representation letter being different and more demanding than the deadline to declare the intention to participate in the GM. In any case, should the articles of association establish a shorter period, (i.e. closer to the GM), this will be the relevant date as it is more favorable to the shareholders' interests and a larger shareholder representation in the GM.

## 5. MINUTES CONTENT

Further to the information requested in article 63 of the Portuguese Companies Code <sup>4</sup>, the GM minutes must include the (i) total number of the votes cast; (ii) percentage of the share capital represented corresponding to the total number of votes cast; and (iii) the number of shares corresponding to the total number of votes cast (such information must be disclosed in the website, as a rule within the 15 days following the end of the GM).

---

<sup>4</sup> Art. 63 of the Portuguese Companies Code establishes that the minutes must include: (i) the identification of the company, the place, the date and time of the meeting; (ii) the name of the Chairman and the Secretaries; (iii) the attendance list; (iv) the agenda included in the GM notice; (v) reference to the documents and reports submitted to the GM; (vi) the content of resolutions passed; (vii) the voting results; and (viii) shareholders' voting declarations, should they require so.



[WWW.PLMJ.COM](http://WWW.PLMJ.COM)

PLMJ - Sociedade de Advogados de Responsabilidade Limitada  
Lisbon ■ Oporto ■ Faro  
Coimbra ■ Azores ■ Guimaraes ■ Viseu

 **PLMJ**  
INTERNATIONAL  
LEGAL NETWORK  
MEMBER OFFICES  
ANGOLA • BRAZIL • CAPE VERDE • CHINA  
MACAO • MOZAMBIQUE • PORTUGAL