

# LEGAL UPDATE

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## REGULATION UPDATE

### REITS REQUIRED TO HOLD AGMS

#### MAS Code of Collective Investment Schemes revised

The Monetary Authority of Singapore (the “MAS”) has revised the Property Funds Appendix (the “**Property Funds Guidelines**”) of the Code on Collective Investment Schemes.

The main purpose of the revision is to require all real estate investment trusts (“REITs”) to hold annual general meetings (“AGMs”) for their unitholders. This requirement takes effect from **1 January 2010**. All REITs, regardless of whether they were formed before or after the date of this revision, will be expected to hold an AGM by 31 December 2010.

Prior to the amendments, the Property Funds Guidelines did not mandate AGMs for REITs but allowed for a general meeting (an “EGM”) to be convened at the request in writing of not less than 50 participants or participants representing not less than 10% of the issued units of the property fund. This provision was incorporated into the Property Funds Guidelines based on the feedback received from an earlier public consultation held by the MAS in June 2005. The feedback reflected the generally held view at that time that it would be sufficient to provide for EGMs to be convened at the request of an appropriate number of unitholders, as REIT EGMs were being held from time to time to obtain unitholder approval for new acquisitions. They therefore provided adequate opportunities for unitholders to present their views and for resolutions to be passed.

However, in the current economic climate, REITs are making fewer or no acquisitions, and hence fewer EGMs are being held for approvals of acquisitions. Moreover, it has also been noted that in volatile market conditions, convening EGMs to approve certain matters, such as a general mandate for the issuance of new units, could trigger speculation and cause a negative impact on the unit price.

Another public consultation was therefore held in May 2009 to propose the implementation of mandatory AGMs for REITs. The MAS also conducted discussions with REITs industry players. The changes to the Property Funds Guidelines are a result of the feedback received.

The MAS views REIT AGMs as an important forum for REITs managers to communicate with all unitholders, including the retail investors. They are also considered good corporate governance practice.

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### Compulsory AGMs for REITs

Under the revised Property Funds Guidelines, REITs will be required to hold AGMs once every calendar year and not more than 15 months from the last preceding AGM. The AGM will have to be held within 4 months of the end of the financial year of the REIT. This requirement is similar to the AGM requirement for listed companies in the Listing Manual of the Singapore Exchange Securities Trading Limited.

As a matter of good corporate governance, the MAS will require REIT managers to present the REIT's audited profit and loss accounts to the unitholders at each AGM. These accounts should be accompanied by an auditor's report. The appointment of the auditor for the following year and the auditor's fees and expenses should also be decided at each AGM.

The AGM agenda for REITs is, however, not restricted to the two items above. REIT managers may decide to include other items to be discussed. They may refer to the relevant AGM requirements for listed companies and business trusts in the Companies Act and Business Trusts Act, respectively, for guidance. As the intention of making AGMs compulsory is to provide appropriate channels for unitholders to express their views on matters affecting the REIT, REIT managers are also encouraged to adopt the principles in the Code of Corporate Governance 2005 on communication with unitholders.

### References:

Please click on the links below to refer to the documents:

1. [The MAS Press Release dated 11 November 2009](#);
  2. [The Code on Collective Investment Schemes](#);
  3. [Public Consultation Paper on Mandatory AGM Requirement for REITS dated 26 May 09](#);
  4. [Response to Feedback received on Public Consultation Paper dated 2 September 2009](#);
- and
5. [The Code of Corporate Governance 2005](#).

If you have any queries on this update, or wish to discuss how it may potentially affect you or your business, please feel free to contact the corporate and finance lawyers in Drew & Napier LLC (please refer to the Directors' Profiles on our [website](#)), or any of the following:

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