

## Electronic General Assembly System in Joint Stock Companies

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### Introduction

Electronic General Assembly System (“EGAS”) which has many benefits such as increased participation, possibility of cross border voting, reduction in operational and travel costs was launched with the new Turkish Commercial Code (“TCC”) in 2012. EGAS is designed not only for joint stock companies (“JSC”) but for limited liability companies as well. The system became effective for JSC with the publication of the Regulation on Participation to General Assemblies of JSC in Electronic Environment (“Regulation”) which lays out the procedure of the system in detail. In this article, the EGAS will be examined under the provisions of TCC and the Regulation due to its increasing importance especially in times of crisis like COVID-19.

### Requirement for Specific Provision in AoA

In order to adopt and use EGAS, JSCs are required to insert a specific provision into their AoAs. A model provision is provided for in the Regulation but no alteration is permitted on the sample provision. The model provision reads as follows:

*“Beneficiaries who are entitled to attend the General Assemblies may also participate in EGAS in accordance with the Article 1527 of TCC. The company may either create its own EGAS or may purchase a service from other systems that provides the beneficiaries electronically participate, share their opinions, make suggestions and vote pursuant to the provisions of the Regulation. Thus, as per this AoA, the beneficiaries and their representatives shall be enabled*

*to exercise the rights over the purchased system that are specified in the Regulation for all the General Assembly meetings to be held.”*

As per the Regulation, participating in General Assembly (“GA”) meetings, appointing a representative, making suggestions, expressing opinions and voting are conducted through EGAS provided by the Central Securities Depository (“CDS”) for the listed companies. Furthermore, companies that stipulate EGAS provision in their AoA must ensure beneficiaries and their representatives can attend and vote at the electronic meeting.

It is not compulsory for privately-held JSCs and non-listed publicly-held JSCs to adopt EGAS. However, it is compulsory for the listed companies since October 1, 2012, i.e. when the Regulation came into force.

### **Preparations for Electronic Meetings**

Companies are required to give notice to their shareholders regarding all necessary documents concerning the relevant electronic GA including the agenda of the meeting with an electronic signature in EGAS within the period specified in TCC.

Shareholders and members of Board of Directors who intend to participate in the electronic GA are obliged to notify their electronic mail addresses to the company via EGAS, and they must send the company a participation statement two days before the meeting. This obligation shall be fulfilled by CDS for the listed companies. Companies must accept or reject the requests of participation within two business days. The invitations that has not been rejected should be considered as accepted.

Personal identification information of the representative who will attend the meeting on behalf of a beneficiary has to be submitted on EGAS before the meeting.

### **Meeting Phase**

Beneficiaries or their representatives must log into EGAS account with their secured electronic signatures in order to participate in the GA.

The list of participants will be available through EGAS before the meeting starts. This list which includes beneficiaries or their representatives who notify the company with regard to their intention to participate in the GA shall be used for compiling the list of attendance during the meeting.

A representative from the Ministry of Trade is required to confirm that the conditions which are determined in the law are met at the beginning of the meeting. Electronic and physical GA shall start at the same time.

Shareholders or their representatives can express their opinions during the electronic meeting through EGAS. All the opinions have to be read and considered. Pursuant to the Regulation, shareholders or their representatives have a right to hazard maximum two opinions, up to 600 characters separately for each agenda item. Thus, it is prevented to abuse the right to express opinions by submitting unreasonably long and a great number of opinions. Finally, all the decisions have been made during the meeting shall be delivered through EGAS to the chairman.

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### **Post Meeting Phase**

The list of attendees and the minutes of meeting has to be delivered electronically to the Representative of the Ministry in a secure way for carrying and storing electronic documents. Companies have to keep all the recorded transactions on EGAS for at least ten years.

### **Conclusion**

The outbreak of COVID-19 has increased the importance of electronic GA meetings. Companies will start using online meeting systems such as EGAS more frequently and this will help GA meetings to be held with a minimum level of physical participation and mitigate potential negative effects of events like pandemics.

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